COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION II
CIVIL ACTION NO. 10-CI-1154
ELECTRONICALLY FILED

THE KENTUCKY HORSE RACING COMMISSION;
THE KENTUCKY DEPARTMENT OF REVENUE;
APPALACHIAN RACING, LLC;
CHURCHILL DOWNS INCORPORATED;
ELLIS PARK RACE COURSE, INC.;
KEENELAND ASSOCIATION, INC.;
KENTUCKY DOWNS, LLC;
LEXINGTON TROTS BREEDERS ASSOCIATION, LLC;
PLAYERS BLUEGRASS DOWNS, INC.; and
TURFWAY PARK, LLC,

JOINT PETITIONERS,

vs.

THE FAMILY TRUST FOUNDATION OF KENTUCKY,
INC. d/b/a THE FAMILY FOUNDATION,

RESPONDENT.

REPLY-NOTICE TO NOTICE OF
PARIMAX AND EXACTA OPERATIONS

The Family Trust Foundation of Kentucky, Inc., d/b/a The Family Foundation ("The Family Foundation") gives reply-notice to the notice filed April 25, 2018, by joint petitioners, Keeneland Association, Inc., and Lexington Trots Breeders Association, LLC (the "Red Mile"), concerning operation of the PariMAX and Exacta Gaming Systems.

Since the Joint Petitioners brought the PariMAX operations to the Court's attention, it is important for the Court to be advised that PariMAX has alleged, among other things, that the Encore/Exacta Gaming System is not pari-mutuel wagering and accuses Exacta of "false and misleading statements" and "misrepresentations" in an amended complaint, filed on April 12, 2018, in the United States District Court for the District of Wyoming. in a case styled *Parimax*

Holdings, LLC, v. Exacta Systems, LLC, f/k/a Encore Gaming, LLC, Case No. 16-CV-259J [Doc. 48]. In material respects, PariMAX alleges in the amended complaint that:

"1.   This is an action for false advertising pursuant to the Lanham Act § 43(a), 15 U.S.C. 1125(a). Parimax seeks redress for Exacta's deliberate and unlawful false and misleading representations regarding its historic horse racing system and games (the "Exacta System" and "Exacta Games", respectively). The Exacta System and Games have been marketed and sold by Exacta based on the false and misleading representations that: (1) the Exacta Games are strictly pari-mutuel; (2) the Exacta Games do not rely on any random elements to determine the outcome of wagers; and (3) that the Exacta games are based on a model wager approved by the Association of Racing Commissioners International ("ARCI") known as ARCI-04-105T– Pick (n) Position (x). In fact, the Exacta System and Games are not strictly pari-mutuel, do rely on random elements, and do not follow the ARCI Pick (n) Position (x) model wager."

"2.   Exacta has made these false and misleading statements in an attempt, *inter alia*, to convince bettors and operators of race tracks (and other facilities actually or potentially using historical horse racing products) that Exacta Games and the Exacta System have these qualities."

"3.   Contrary to Exacta's misrepresentations, the Exacta System and Games are not strictly pari-mutuel because the payouts associated with successful wagers are fixed prior to wagers being placed, according to a fixed-odds paytable, and these payouts are not distributed according to pari-mutuel principles."

"4.   Exacta has made the false and misleading representation that its System and Games are 'just like' live horse racing wagers. **By contrast, Exacta's wagers and payouts are fundamentally unlike pari-mutuel wagers in live horse racing and would not be recognized or understood as such by anyone knowledgeable about the live horse racing business.** Unlike live horse racing wagers, which each have separate pools of money associated with each wager, Exacta uses a single pool and the Exacta System and Games do not distribute all the losing money in this pool to bettors who made winning wagers." [Emphasis added.]

"5.   Contrary to Exacta's misrepresentations that its Games do not rely on random elements, the payouts of the Exacta Games *do* rely on a random number generator. The Exacta System and Games use a 'Triple Race Method' in which each wager involves predicting the finishing order in each of three historical races, and a random number generator is used to randomly and arbitrarily designate each of these races as Race 1, 2, or 3. The payouts in the Exacta Games are heavily dependent on *which* of these three races the bettor's correct predictions are associated with."

"6.   For example, a 'Daily Double' is a common horse race wager in which a bettor must correctly select the winners of two different races to win. In the Exacta games, a bettor who correctly selects the winners of two different races may or may not win – and indeed may win different amounts – depending on which specific two races were correctly selected. Because the order of the three races is randomly determined, an Exacta player who consistently selects the winner of two races is nevertheless inconsistently rewarded."

"7.   Contrary to Exacta's misrepresentations, the Exacta Games also do not follow the ARCI Pick (n) Position (x) model wager because the net prize pool is not distributed even if all positions in all races are selected correctly. For example, the Pick (n) Position (x) rule mandates that all correct position selections are weighted equally (e.g. correctly picking the runner who comes in 1st place is rewarded the same as correctly picking the runner who comes in 10th place). Contrary to this mandate, the Exacta Games assign different weight to each position selection (e.g. correctly picking 1st place is not rewarded the same as correctly picking 10th place)."

"8.   As an illustration, the Exacta game awards a player who correctly picks the first and third finisher (two correct picks) in the first race with a payout, while a player who correctly picks the second, third, fourth, fifth, and sixth finishers (five correct picks) in the first race does not receive a payout. This behavior is contrary to the plain language of the Pick (n) Position (x) rule, which states 'net Position (x) pool shall be distributed as a single price pool to those who correctly selected finishers, in exact position, *in the greatest number of positions* in Position (x) contests.' (emphasis supplied)."

"9.   On information and belief, by failing to distribute the Exacta prize pool in a pari-mutuel manner and in accordance with the ARCI Pick (n) Position (x) rule, and instead offering a system based on fixed paytables and random number generators, Exacta has avoided the development costs associated with a true pari-mutuel system by developing a non-pari-mutuel system based on slot machine logic."

"10. Contrary to Exacta's representations, the Exacta System does not distribute the net pool to the bettor who makes the most correct selections. For example, even if a bettor correctly picks all 10 positions in each of the three races – a perfect 30 out of 30 bets – only a small portion of the pool is distributed to the winner, with the majority of the pool remaining for use by the operator to entice further play. As described in paragraphs 67 to 69 below, a bettor making this perfect pick may win as little as 1% to 4% of the total pool."

"11. Parimax develops, markets and offers historical horse racing products, the Instant Racing System and the Parimax System, that compete with the Exacta System and Games."

"12. Parimax brings this action because Exacta's false and misleading advertisements regarding the nature of the Exacta System and the Exacta Games have provided Exacta an unfair and unlawfully-obtained position in the market and caused harm to Parimax."

A copy of the file-stamped PariMAX amended complaint, with exhibits, is attached hereto as **Exhibit A.** PariMAX gaming system was bifurcated from the trial of the Exacta Gaming System.

Respectfully submitted,

/s/ Stanton L. Cave

Stanton L. Cave
LAW OFFICE OF STAN CAVE
P.O. Box 910457
Lexington, KY 40591-0457
Telephone: (859) 309-3000
Facsimile: (859) 309-3001
Email: stan.cave@stancavelaw.com
Counsel for The Family Trust Foundation of Inc., d/b/a The Family Foundation

CERTIFICATE OF SERVICE

Copies of the foregoing were served by depositing same in the United States Mail, first class, postage prepaid, addressed and emailed, where indicated, to the following on this the 26th day of April 2018:

John Forgy, Esq.
George Seay, Esq.
Kentucky Horse Racing Commission
4063 Ironworks Parkway, Building B
Lexington, KY 40511
John.forgy@ky.gov
gseay@ky.gov

Carmine G. Iaccarino, Esq.
Deputy Executive Director, Office of Legal Services
Public Protection Cabinet
656 Chamberlin Avenue, Suite B
Frankfort, KY 40601
carmine.iaccarino@ky.gov

Richard W. Bertelson, Esq.
Office of Legal Services for Revenue
P.O. Box 423
Frankfort, KY 40602-0423
richard.bertelson@ky.gov

William A. Hoskins, Esq.
Jay Ingle, Esq.
Jackson & Kelly PLLC
175 East Main Street, Suite 500
Lexington, KY 40507
whoskins@jacksonkelly.com
jingle@jacksonkelly.com

Sheryl G. Snyder, Esq.
Jason Renzelmann, Esq.
Frost Brown Todd LLC
400 West Market Street, 32nd Floor
Louisville, KY 40202
ssnyder@fbtlaw.com
jrenzelmann@fbtlaw.com

William M. Lear, Jr., Esq.
Shannon Bishop Arvin, Esq.
Brad S. Keeton, Esq.
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, KY 40507-1801
william.lear@skofirm.com
shannon.arvin@skofirm.com
brad.keeton@skofirm.com

Sam D. Hinkle, IV, Esq.
Brad S. Keeton, Esq.
Stoll Keenon Ogden PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202-2828
Sam.hinkle@skofirm.com
Brad.keeton@skofirm.com

Hon. Thomas Wingate
Judge, Franklin Circuit Court
Franklin County Courthouse
222 St. Clair Street
Frankfort, KY 40601

/s/ Stanton L. Cave
_____
Stanton L. Cave, Esq.

Scott E. Ortiz, WSB# 5-2550, sortiz@wpdn.net
Ryan L. Ford, WSB# 7-4667, rford@wpdn.net
WILLIAMS, PORTER, DAY & NEVILLE, P.C.
PO Box 10700
Casper, WY 82602
(307) 265-0700
(307) 266-2306 (facsimile)

Gerard J. Gaeng (*Pro Hac Vice*) GGaeng@rosenbergmartin.com
G. Adam Ruther (*Pro Hac Vice*) ARuther@rosenbergmartin.com
J. Teigen Hull (*Pro Hac Vice*) JThull@rosenbergmartin.com
Rosenberg Martin Greenberg, LLP
25 South Charles Street, 21st Floor
Baltimore, Maryland 21201
(410) 727-6600
(410) 727-1115 (facsimile)

Tim Gilbert (*Pro Hac Vice*) tim@gilbertslaw.ca
Andrew Moeser (*Pro Hac Vice*) andrew@gilbertslaw.ca
Matthew Frontini (*Pro Hac Vice*) mfrontini@gilbertslaw.ca
GILBERT'S LLP
77 King St. West, Suite 2010
Toronto, Ontario M5K 1K2
(416) 703-1100
(416) 703-7422 (facsimile)

James M. Hinshaw (*Pro Hac Vice*) jhinshaw@bgdlegal.com
Bingham Greenebaum Doll LLP
10 West Market Street
2700 Market Tower
Indianapolis, IN 46204
(317) 968-5385
(317) 236-9907 (facsimile)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

PARIMAX HOLDINGS, LLC	)	
	)	
Plaintiff	)	
	)	
v.	)	Case No. 16CV259J
	)	
EXACTA SYSTEMS, LLC f/k/a ENCORE	)	
GAMING, LLC	)	
	)	
Defendant	)	

AMENDED COMPLAINT

Plaintiff Parimax Holdings, LLC ("Parimax"), pursuant to the Court's order of February 23, 2018 (ECF No. 43) granting Plaintiff leave to file an amended complaint, states as follows for its Amended Complaint against Defendant Exacta Systems, LLC f/k/a Encore Gaming, LLC ("Exacta"):

NATURE OF THE ACTION

1.   This is an action for false advertising pursuant to the Lanham Act § 43(a), 15 U.S.C. 1125(a). Parimax seeks redress for Exacta's deliberate and unlawful false and misleading representations regarding its historic horse racing system and games (the "Exacta System" and "Exacta Games", respectively). The Exacta System and Games have been marketed and sold by Exacta based on the false and misleading representations that: (1) the Exacta Games are strictly pari-mutuel; (2) the Exacta Games do not rely on any random elements to determine the outcome of wagers; and (3) that the Exacta Games are based on a model wager approved by the Association of Racing Commissioners International ("ARCI") known as ARCI-04-105T - Pick (n) Position (x). In fact, the Exacta System and Games are not strictly pari-mutuel, do rely on random elements, and do not follow the ARCI Pick (n) Position (x) model wager.

2.   Exacta has made these false and misleading statements in an attempt, *inter alia*, to convince bettors and operators of race tracks (and other facilities actually or potentially using historical horse racing products) that Exacta Games and the Exacta System have these qualities.

3.   Contrary to Exacta's misrepresentations, the Exacta System and Games are not strictly pari-mutuel because the payouts associated with successful wagers are fixed prior to wagers being placed, according to a fixed-odds paytable, and these payouts are not distributed according to pari-mutuel principles.

2

4.   Exacta has made the false and misleading representation that its System and Games are "just like" live horse racing wagers. By contrast, Exacta's wagers and payouts are fundamentally unlike pari-mutuel wagers in live horse racing and would not be recognized or understood as such by anyone knowledgeable about the live horse racing business. Unlike live horse racing wagers, which each have separate pools of money associated with each wager, Exacta uses a single pool and the Exacta System and Games do not distribute all the losing money in this pool to bettors who made winning wagers.

5.   Contrary to Exacta's misrepresentations that its Games do not rely on random elements, the payouts of the Exacta Games *do* rely on a random number generator. The Exacta System and Games use a "Triple Race Method" in which each wager involves predicting the finishing order in each of three historical races, and a random number generator is used to randomly and arbitrarily designate each of these races as Race 1, 2, or 3. The payouts in the Exacta Games are heavily dependent on *which* of the three races the bettor's correct predictions are associated with.

6.   For example, a "Daily Double" is a common horse race wager in which a bettor must correctly select the winners of two different races to win. In the Exacta games, a bettor who correctly selects the winners of two different races may or may not win – and indeed may win different amounts – depending on which specific two races were correctly selected. Because the order of the three races is randomly determined, an Exacta player who consistently selects the winner of two races is nevertheless inconsistently rewarded.

7.   Contrary to Exacta's misrepresentations, the Exacta Games also do not follow the ARCI Pick (n) Position (x) model wager because the net prize pool is not distributed even if all positions in all races are selected correctly. For example, the Pick (n) Position (x) rule mandates

3

that all correct position selections are weighted equally (e.g. correctly picking the runner who comes in 1st place is rewarded the same as correctly picking the runner who comes in 10th place). Contrary to this mandate, the Exacta Games assign different weight to each position selection (e.g. correctly picking 1st place is not rewarded the same as correctly picking 10th place).

8.   As an illustration, the Exacta game awards a player who correctly picks the first and third finisher (two correct picks) in the first race with a payout, while a player who correctly picks the second, third, fourth, fifth, and sixth finishers (five correct picks) in the first race does not receive a payout. This behavior is contrary to the plain language of the Pick (n) Position (x) rule, which states "net Position (x) pool shall be distributed as a single price pool to those who correctly selected finishers, in exact position, *in the greatest number of positions* in Position (x) contests." (emphasis supplied).

9.   On information and belief, by failing to distribute the Exacta prize pool in a pari-mutuel manner and in accordance with the ARCI Pick (n) Position (x) rule, and instead offering a system based on fixed paytables and random number generators, Exacta has avoided the development costs associated with a true pari-mutuel system by developing a non-pari-mutuel system based on slot machine logic.

10.   Contrary to Exacta's representations, the Exacta System does not distribute the net pool to the bettor who makes the most correct selections. For example, even if a bettor correctly picks all 10 positions in each of the three races – a perfect 30 out of 30 bets – only a small portion of the pool is distributed to the winner, with the majority of the pool remaining for use by the operator to entice further play. As described in paragraphs 67 to 69 below, a bettor making this perfect pick may win as little as 1% to 4% of the total pool.

4

11.   Parimax develops, markets and offers historical horse racing products, the Instant Racing System and the Parimax System, that compete with the Exacta System and Games.

12.   Parimax brings this action because Exacta's false and misleading advertisements regarding the nature of the Exacta System and the Exacta Games have provided Exacta an unfair and unlawfully-obtained position in the market and caused harm to Parimax.

THE PARTIES

13.   Plaintiff Parimax is a Delaware corporation with its principal place of business in Hunt Valley, Maryland.

14.   On information and belief, Defendant Exacta is an Indiana limited liability company with its principal place of business in Nashville, Tennessee. Exacta has citizenship in Texas, Florida, Oklahoma, Tennessee, and Kentucky.

15.   As described further below, Exacta conducts business, markets, develops and/or distributes products in Florida, Kentucky, Tennessee and Wyoming. Upon information and belief, it also markets its products to operators and potential operators in other states.

JURISDICTION AND VENUE

16.   This action arises under 15 U.S.C § 1125(a). The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1331 (federal question), 15 U.S.C. § 21 (Lanham Act claims) and 28 U.S.C. § 1367 (supplemental jurisdiction).

17.   Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400 because a substantial part of the events or omissions giving rise to the claims occurred in this District. By way of example, and without limitation, Exacta has made its false statements to the Wyoming Pari-Mutuel Commission ("WPMC") in an effort to obtain approval for the use of the Exacta Games at facilities operated by Wyoming Horse Racing, LLC and to potential operators and bettors in Wyoming. Exacta has also widely and publicly disseminated its false statements to consumers of

historical horse racing entertainment services resident in Wyoming, consumers of such services patronizing Wyoming facilities where Exacta Games are located, and consumers located in Wyoming who have access to and utilize the internet.

BACKGROUND

Historical Horse Racing

18.   Historical horse racing is a form of pari-mutuel betting that uses electronic devices, or terminals, at which individuals may place bets on horse races that occurred in the past.

19.   Non-parties RaceTech, LLC ("RaceTech") and AmTote International Inc. ("AmTote"), developed the first systems and technology for offering historical horse racing ("HHR"). In very general terms, AmTote designed and provided the totalizator systems, which are automated systems that allow for pari-mutuel wagering. These systems pool wagers from multiple bettors, subtract taxes and certain authorized deductions (takeout and breakage), and once the pools are closed to receiving any additional bets, calculate the amount paid to the winning bettors such that all the money from losing wagers is distributed to the winning bettors.

20.   RaceTech utilized those totalizator systems in terminals that offer a variety of different betting formats (i.e., different game types), which allow bettors to place pari-mutuel wagers on historical horse races, utilizing actual past performance information from those races that has been scrubbed of identifying characteristics that might otherwise permit the bettor to ascertain the identity of the race prior to placing the bet. RaceTech, and its subsidiaries, marketed this technology under the brand name Instant Racing from approximately 1999 until July 2016.

21.   In July 2016, pursuant to an asset purchase agreement, RaceTech and its subsidiaries sold to Parimax, then operating under the name "HHR Investments, LLC," all assets relating to historical horse racing, including all goodwill in the Instant Racing brand.

6

22.   Parimax now markets the Instant Racing System, which operates at racetracks in Kentucky and Arkansas.

23.   Parimax also markets another historical horse racing product – the Parimax System. The Parimax System was developed by AmTote independently of the Instant Racing System and was assigned to Parimax in or around October of 2016.   The Parimax System was first offered to the public in or around August 2015 and is in operation at racetracks in Wyoming, Oregon, and Kentucky.

24.   The Parimax System is also marketed in other states.

Pari-mutuel Wagering

25.   Pari-mutuel wagering is a betting system wherein: (a) all the amounts of money wagered by a group of bettors on each of the possible outcomes of a contest (e.g., a live or historical horse race) are pooled; (b) standard deductions such as taxes and "house take" are subtracted (the pool after these deductions is referred to as the "Net Pool"); and (c) the amount paid to winning bettors is calculated after the close of wagering and the conduct of the contest, by sharing the Net Pool amongst all winning bets. The transfer of all losing money in the pool to bettors who placed winning wagers is the foundation of the pari-mutuel wagering system.   Pari-mutuel wagering is authorized in 43 States in the United States (including Wyoming), all provinces in Canada and approximately 65 other countries in the world.

26.   Pari-mutuel wagering is often permitted in jurisdictions that prohibit other types of gambling, such as "fixed-odds" wagering. Pari-Mutuel wagering is fundamentally different than fixed-odds wagering. In fixed-odds wagering, the payout of a winning wager is set by the house prior to the conduct of wagering, either as an absolute amount or a percentage amount of a wagering pool (which pool may be referred to as a "jackpot" or "progressive jackpot"). After a bettor makes a wager, the payout that will be won (if any) is fixed (either in absolute or percentage

7

terms) at the moment the wager is placed and does not change after the fact, regardless of other wagers that may be placed by other bettors on the same event.

27.   The foundation of pari-mutuel wagering is a system by which bettors wager only amongst themselves. They do not bet "against the house." This foundation is reinforced in virtually all state and federal legislation and regulation that apply to pari-mutuel wagering.

28.   When bettors are wagering amongst themselves, payouts comprise: first, returning the amount of money wagered by each of the winning bettors to him or her; and, second, distributing all of the remaining money that was wagered to the winning bettors, based on the ratio of losing money to winning money. In plain language: "if you win, you get back what you bet plus your share of all the losing money based on how much you bet."

29.   The use of a paytable that specifies fixed distributions, percentages or values in determining the allocation of the money wagered interposes a third party in the relationship between winners and losers. The involvement of this third party negates a wager from being pari-mutuel because it eliminates the foundation of bettors wagering only amongst themselves. In plain language: "if you win, you only get back whatever amount the third party has decided."

30.   Wyoming, like other states, authorizes pari-mutuel wagering, and it similarly defines pari-mutuel wagering - that wagers must be distributed to winning bettors in a pari-mutuel fashion and that the entire Net Pool be distributed to winning bettors:

> ...wagering on the outcome of pari-mutuel events in which those who wager purchase tickets of various denominations on entrants in the events and all wagers for each event are pooled and held by the permittee for distribution, and when the outcome of the event has been decided, the permittee distributes the total wagers comprising the pool, less an amount not greater than twenty-five and nine-tenths percent (25.90%) for live racing and in the event of simulcasting an amount not to exceed the percentage allowed at the host track or thirty-five percent (35%),

8

whichever is less and less the amount for breakage[1] to holders of tickets on the winning entries;

Wyo. Stat. § 11-25-102(a)(vi)

31.   In the horse racing industry, the distribution of the money from losing wagers to those bettors who had winning wagers, based on the amount of money each winning bettor wagered, is performed according to a standard calculation.   When a wager is accepted, the racetrack removes an amount known as "takeout".   The remainder of the wager is added to the pool of money available to be won, the Net Pool.   The standard pari-mutuel method to calculate payouts to winning bettors is that the amount bet on the winning outcome is divided into the Net Pool less the winning money, and the resulting price (*i.e.* payout odds) is allocated to each bettor that placed a winning wager in proportion to the amount of his or her wager (*e.g.* a $4 winning wager is allocated twice as much as a $2 winning wager).

ARCI Pari-Mutuel Model Wagers

32.   The Association of Racing Commissioners International ("ARCI") is an umbrella organization of the official governing rule-making bodies for professional horse and greyhound racing in North America and parts of the Caribbean.   ARCI sets standards for racing regulation, totalizator systems and wagering, among other issues.

33.   With respect to wagering, the ARCI promulgates model rules, which are adopted in many jurisdictions, including in Wyoming and other jurisdictions in which Plaintiff and Defendant operate.   The WPMC is an active member of the ARCI and, according to the WPMC's annual reports, it uses the ARCI to "continually elevate the integrity of horse racing in the State of Wyoming".

---

[1]   Breakage refers to the pennies that are left over when pari-mutuel payoffs are rounded down to a nickel or dime. Breakage is generally split between the track and state and, in some cases, breeding or other funds, in varying proportions.

34.   The standard pari-mutuel payout calculation described above in paragraph 31 is referred to in the ARCI rules as distributing a single price pool (the "Single Price Pool Rule") and is used for distributing the payout of winning wagers under various rules including the Pick (n) Position (x) model rule.

35.   The Single Price Pool Rule from the ARCI rules is incorporated in each specific horse racing wager authorized by the WPMC in which payouts are dependent on the exact position that a horse finishes (e.g. Win pools, Pick (n) pools, Quinella pools, Exacta pools, Trifecta pools, Superfecta pools, etc.). Pari-Mutuel Commission Rules, Chapter 9, section 4. Indeed, each of the wagering rules specifically approved by the WPMC in Chapter 9, section 4, was adopted from the ARCI model rules. Similarly, other states that permit pari-mutuel betting incorporate ARCI rules.

36.   In particular, the ARCI has promulgated the model rule ARCI-04-105T: Pick (n) Position (x) wager. A copy of ARCI-04-105T is attached as Exhibit "A".[2] The Pick (n) Position (x) wager involves bettors wagering on the first (x) finishers, in their exact positions, in each of a designated number of (n) contests. For example, in a one race, four position pool ($n = 1$, $x = 4$), the bettor chooses four finishers in one race. If the actual finishers, in order, are horses "4, 2, 3, 1" and the bettor has selected "1, 2, 3, 4", the bettor has correctly chosen 2 positions (the second and third place finishers). Similarly, if another bettor had selected "4, 3, 2, 1", that bettor would also have correctly chosen 2 positions (the first and fourth finishers). Both bettors' selections would be equivalent in that they both had chosen correctly 2 positions.

---

[2]   Exhibit "A" contains version 6.0 of the ARCI model rules, which was adopted July 16, 2015, and which is the version of the model rules that was approved by the ARCI when approval of the Exacta System and Games was sought and received in Wyoming. At all material times, the Pick (n) Position (x) rule has been the same regardless of the version of the ARCI model rules.

The Exacta System and Games

37.   The Exacta System is comprised of terminals that allow bettors to wager on official horse races that have previously occurred. The identity of the horses, jockeys and track at which a historical horse race was run are hidden prior to placing a wager to prevent bettors from looking up the results.

38.   The Exacta System utilizes what Exacta terms its "Triple Race Method". The Triple Race Method entails bettors predicting the finishing order of 10 horses in each of three races. The Exacta System utilizes a Random Number Generator ("RNG") to randomly select three races from Exacta's database of historic races. The three selected races are randomly designated as Race 1, Race 2, Race 3 for the purpose of the wager. As described below in paragraphs 73 to 76 and 82 to 84, Exacta's RNG and the random assignment of the three races as Race 1, Race 2 and Race 3 plays a substantial role in determining the outcome of a bettor's wager.

39.   Upon being presented with three historical races on which to wager at the same time, bettors manually select the finishing order of the 10 horses in each of the three races or use a handicapping function to automatically select these finishing positions.

40.   The Exacta historical horse racing terminals each implement a specific game theme, which is the graphical entertainment display (such as spinning reels) used to display the prize won. Each Exacta terminal is based on a "Math Model" and a currency denomination. A Math Model is a term used by Exacta to refer to a configuration which defines specific game parameters including the payouts associated with winning wagers. The currency denomination refers to the monetary value associated with each game credit (e.g. in a $0.01 denomination, each credit is worth $0.01). As described in detail below, the Math Models contain the paytables that are used to determine prizes.

11

41.   All of the Exacta terminals at a given racetrack that use the same combination of Math Model and currency denomination will participate in the same, single prize pool. Accordingly, a bettor's wager, minus the takeout, will be placed into a single prize pool, rather than being allocated into multiple pools. Each prize pool is initially seeded by the operator with a designated amount of money (the "Seed Amount"). The purpose of the Seed Amount is to provide a guaranteed source of funds to prevent a prize pool from ever having a negative balance.

42.   All Exacta Games operate using a single game outcome methodology – bettors' wagers are based on correctly identifying the finishing order of horses in three races chosen at random from Exacta's database of historical horse races. Each race is composed of 10 horses. A hypothetical wager can be represented on a 3-column, 10-row grid, where a "1" indicates a correctly predicted finishing position and a "0" indicates an incorrectly predicted finishing position:

Position	Race 1	Race 2	Race 3
1st	1	0	0
2nd	0	0	1
3rd	1	1	0
4th	1	1	1
5th	0	0	0
6th	0	0	0
7th	0	1	0
8th	1	0	0
9th	0	0	0
10th	0	0	1

43.   In the Exacta game methodology, the results are represented as a 30-digit binary number. In the example above, the binary number is: 100 001 110 111 000 000 010 100 000 001. This 30-digit binary number is converted to a decimal number using a standard conversion from a

12

binary number system (which uses only two digits of 0 and 1) to a decimal number system (which is the familiar base 10 numbering system using 0, 1, 2, 3, 4, 5, 6, 7, 8 and 9). The resulting decimal number is referred to as the "Pattern ID". In the example above, the decimal number (Pattern ID) is 568.067.329.

44.   In the Exacta System, each Math Model contains a "Math Definition File", which is a lookup table that specifies the prize (if any) associated with a given Pattern ID. The prizes are based on the difficulty or likelihood of achieving a particular Pattern ID. These lookup tables (or paytables) are similar to those used by slot machines or video lottery terminals to determine prizes. The lookup tables used in the Exacta System are described in more detail in paragraphs 60 to 68.

Exacta's False Advertising of the Exacta System and Games

45.   The Exacta System and Games were first made available to the public on April 2, 2015, at the Kentucky Downs racetrack in Franklin, Kentucky. This system and games were originally marketed under the brand name "Encore," corresponding to Defendant's original corporate name of Encore Gaming, LLC ("Encore"). In or around April 26, 2016, Defendant changed its corporate name and rebranded its product under the Exacta name. Encore and Exacta are used interchangeably in this Complaint to refer to the same system and games.

46.   Exacta published a press release on its website, dated August 19, 2015, and also published written materials, which among other things, represented that:

        a.   "[t]he Encore system is strictly pari-mutuel;"

        b.   "[a]ll Encore games rely solely on the results of horse races, and not on any random draws, random number generation or any other random elements to determine the outcome of wagers;" and

        c.   "[a]ll Encore games are based on a pre-existing ARCI approved pari-mutuel wager,"

13

47.   These statements are literally false. The Encore system is not pari-mutuel. The outcome of wagers is substantially affected by a random number generator. And, the Encore games are not based on a pre-existing ARCI approved pari-mutuel wager.

48.   Exacta has falsely stated to racetrack operators and other industry participants that the Exacta System and Games follow a specific ARCI model rule – ARCI-04-105T: Pick (n) Position (x).

49.   These representations were widely disseminated among consumers, race track operators and potential historical racing operators. For example, they were published on August 20, 2015, on the industry website bloodhorse.com, as well as publication on prnewswire.com; tdwaterhouse.ca; newsunited.com; and paulickreport.com. Further, on information and belief, these false representations have also been repeated by Exacta representatives during meetings with Parimax's customers and other potential historic racing customers including in Wyoming and elsewhere.

50.   Upon information and belief, Exacta has published similar false and misleading statements on its website from 2015 until today.

51.   Exacta further distributed written materials containing similar false or misleading advertisements at major trade shows and to race track operators and potential historic racing operators. For example, Exacta's written advertisement distributed at the 2015 Global Gaming Expo (G2E) – an international gaming conference in Las Vegas that was attended by race track operators and other industry participants – contained the following statements in its "FAQs" section:

IS THE ENCORE RBG SYSTEM PARI-MUTUEL?

Yes. The Encore RBG System fits squarely within the definition of "pari-mutuel" wagering in that players bet into a pool, and that pool is ultimately distributed to those with the most correct selections.

14

[...]

ARE THE RESULTS RANDOM?

No. The Encore RBG System does not use a "random number generator" to produce results and payouts. Just like a live race, payouts are based on the level of difficulty associated with predicting the finish of the races...

[...]

HOW ARE PAYOUTS DETERMINED?

Like all pari-mutuel pool and payouts, the Encore RBG System rewards players based on the degree of difficulty. Correctly selecting the winners of the three races (what racing fans would call a "Pick Three") pays more than selecting the first two winners (like a "Daily Double"). Picking the correct order of the top three finishers of one of those races (a "Trifecta") in such a scenario creates a larger payout; the top four (a "Superfecta") would return even more. The fact that players can easily recognize and understand these sequences and results adds to the unique attractiveness of the Encore RBG System and its compatibility with live horse racing. Just like in live pari-mutuel horse racing, pools and payouts are constantly changing as players make their bets.

[...]

ARE ENCORE GAMES COMPATIBLE WITH ARCI'S MODEL RULES?

Yes. All of the Encore Games have been developed to specifically fit within configurations that the Association of Racing Commissioners International has approved to date.

52.   Exacta has made similar false and misleading statements to racetrack operators and other industry participants at gaming conferences including G2E and the Global Symposium on Racing.

53.   Exacta made these false and misleading statements, at least in part, in an attempt to reassure race track operators, potential historic-racing operators and bettors that they should feel comfortable with Exacta's product because it is "just like" live racing wagers.

54.   On information and belief, at least some customer racetracks and potential historic-racing operators have been misled by these representations as evidenced by their reliance on these representations in contracting to buy the Exacta Systems and Games and in seeking regulatory approval. For example, on or about October 13, 2015, racetrack operator, Wyoming Horse Racing,

15

LLC, sought approval from the WPMC to offer the Exacta System and Games, in reliance on the representations that Exacta Systems and Games are pari-mutuel and based on the ARCI-04-105T model rule: Pick (n) Position (x).

55.   Exacta has made similar false and misleading statements to potential, current and former Parimax customers, including Ellis Park and Keeneland-Red Mile.

The Exacta System and Games are not strictly Pari-mutuel

56.   The Exacta System and Games are not "strictly pari-mutuel" because: (1) payouts are fixed prior to the wager being placed and wagering pools are not distributed according to pari-mutuel principles; and (2) the wagers are fundamentally unlike pari-mutuel wagers in live horse racing.

How the Exacta Games Determine Payouts

57.   The Net Pool associated with an Exacta Game is initially funded by the Seed Amount. The amount of money in the Net Pool fluctuates as bettors win and lose wagers – funds accrue in the Net Pool when a bettor makes an unsuccessful wager, and the Net Pool is reduced by a predetermined known amount when a bettor makes a successful wager and receives a payout.

58.   Racetrack operator Kentucky Downs, LLC ("Kentucky Downs") retained Gaming Laboratories International ("GLI") to analyze the Exacta System and Games when it sought approval from the Kentucky Horse Racing Commission ("KHRC") to offer these games to the public in Kentucky. One GLI report, titled "Report of Findings for Twenty-One New Encore Tote System Game Themes and New Player Terminal Software for use with the Encore Tote System version 1.0.42", dated March 9, 2015, (the "GLI Exacta System Report") describes the nature of the payouts in the Exacta System.

16

59.   As described in the GLI Exacta System Report, the payouts in the Exacta System are different depending on whether the value of the prize pool (the Net Pool) is greater or less than the Seed Amount:

a.   When the prize pool is less than the Seed Amount, winning wagers receive a fixed, absolute payout; and

b.   When the prize pool is greater than the Seed Amount, winning wagers receive the fixed, absolute amount plus a fixed percentage of the amount in the Net Pool.

60.   As described above in paragraphs 42 to 44, the Exacta System uses a Math Definition File to determine the prize (if any) associated with a given outcome (Pattern ID) in the Exacta 3-race wager. The Math Definition File is a lookup table (or paytable), similar to those used by slot machines or video lottery terminals.

61.   Attached as Exhibit "B", is an Exacta document describing Math Model TRM1005. The section titled "Pool Split/Seed Pool Minimum Pay" contains the paytable for this Math Model. An excerpt from the TRM1005 paytable is set out below:

Takeout:		10.00%		
Total Prize Pool:		90.00%	Seed @ $0.01:	5 30216.40
Pay Index	Minimum Pay	Pool%	Win Map Start	Win Map End
1	25000	2.515%	1073667080	1073741923
2	15000	0.079%	1071614737	1071661059
3	10500	0.055%	1071187145	1071644736
4	9000	0.042%	1071045226	1071187144
5	7700	0.040%	1070727169	1010660297
6	7600	0.038%	1070604605	1070727168
7	6500	0.034%	1070199620	1070604604
8	5200	0.028%	1070259540	1010595119
9	4700	0.025%	1070197960	1070245639
10	4040	0.023%	1070075609	1070137499
11	3100	0.016%	1070071806	1070075909
12	3000	0.020%	1069940704	1070071807
133	30	3.807%	671162388	680176511
134	25	3.280%	612385151	671182957
135	20	2.624%	578945026	612385153

62.   The Pattern ID (which represents the outcome of the wager) is compared to the range set out in the "Win Map Start" and "Win Map End" columns to determine the Pay Index and prize associated with that outcome. The Pay Index is inversely correlated with the size of the fixed Minimum Pay that a bettor is entitled to, e.g. the fixed Minimum Pay for Pay Index 1 is 20,300 credits, while the fixed Minimum Pay for Pay Index 2 is 15,060 credits, etc. until Pay 135, which is associated with a fixed Minimum Pay of 20 credits.

63.   Pay Index 1 in the above table is assigned to a group of outcomes that range from correctly predicting all 30 positions, corresponding to the Winmap End, to correctly predicting a specific set of eleven positions, corresponding to the Winmap Start. For example, correctly predicting the finishing position of each of the 10 horses in all three races is depicted by the binary pattern 111 111 111 111 111 111 111 111 111 111. This 30-digit binary number converts to the decimal number 1,073,741,823. This decimal number (referred to as Pattern ID) will earn the wager Pay Index 1. Correctly predicting the finishing position of the eleven positions that correspond to the binary pattern 111 111 111 000 000 100 000 000 000 100, converts to the decimal Pattern ID 1,071,661,060 (the Winmap Start value) and will entitle the bettor to the award associated with Pay Index 1.

64.   The Exacta document attached as Exhibit "B" describing Math Model TRM1005 only shows the ranges corresponding to each Pay Index as decimal numbers. Attached as Exhibit "C" is a table that reproduces the paytable from Math Model TRM 1005 together with additional columns showing the ranges corresponding to each Pay Index as 30-digit binary numbers. On information and belief, all of the Exacta Math Models operate as described above.

Exacta Payouts are Fixed and Not Distributed According to Pari-mutuel Principles

65.   For TRM1005, when funds in the Net Pool are less than the Seed Amount of $20,216.40, wagers that qualify for Pay Index 1 will pay out a fixed amount, the Minimum Pay,

of 20,300 credits. When funds in the Net Pool exceed the Seed Amount of $20,216.40, wagers that qualify for Pay Index 1 will pay out 20,300 credits plus 2.533% of the Net Pool.

66.   Other than Pay Index 1, which pays the largest Minimum Pay for correctly selecting all 30 positions, there is little to no correlation between the number of correct selections and the value of the awards listed in the Math Model. For example, correctly selecting the winner of each race and no other positions yields a pattern with 3 correct selections; this falls within Pay Index 116 and a listed Minimum Pay of 115 credits. However, the Win Map End value of Pay Index 126 corresponds to a pattern with 28 correct selections, yet this only pays the listed Minimum Pay of 65 credits. In fact, by translating the Win Map Start and Win Map End values to their binary equivalents, it is evident that in order to win anything, a player must correctly select the winner of the first race. If that does not occur, no matter how many other correct selections the player makes, the player will lose. This is plainly contrary to the premise that picking more correct positions entitles the player to larger awards.

67.   When funds in the Net Pool are less than the Seed Amount of $20,216.40, higher Pay Index numbers are associated with smaller fixed Minimum Pays. For example, Pay Index 1 awards a fixed Minimum Pay of 20,300 credits, Pay Index 12 awards 3,000 and Pay Index 133 awards 30 credits.

68.   However, when funds in the Net Pool are greater than the Seed Amount of $20,216.40, higher Pay Index wagers will pay more than correctly predicting all 30 finishing positions. In this situation, assuming one credit is worth 1 cent, a wager that entitles a bettor to Pay Index 1 (e.g. 30 out of 30 positions) will award $203.00 plus 2.533% of the Net Pool, and a wager that entitles a bettor to Pay Index 133 will award $0.30 plus 3.937%. If the Seed Amount is

exceeded by 1 cent the payout for Index 1 equals $715.08 ($203.00 + ($20,216.41 x .02533)), and the payout for Index 133 will award $796.22 ($0.30 + ($20,216.41 x .03937)).

69.   This distribution of winnings does not follow the standard pari-mutuel calculation using the Single Pool Price Rule and does not distribute the entirety of the Net Pool to the single winner when the success criterion for an Exacta Game, 30 out of 30 runners, is met. On the contrary, in these circumstances, only a portion of the Net Pool is distributed to the winner with the majority of the pool remaining for use by the operator to entice further play. In the example above using Math Model TRM1005, if the value of the Net Pool is 1 cent less than the Seed Amount, then the winner receives $203.00 and $20,013.39 of losing money is left with the operator for future use. If the value of the Net Pool exceeds the Seed Amount by 1 cent, then the winner receives $715.08 and $19,501.33 of losing money is left with the operator for future use. Accordingly, a bettor making this perfect pick may win as little as 1% to 5% of the total pool.

70.   On information and belief, all of the Exacta Math Models operate as described above.

The Exacta Games are Fundamentally Unlike Pari-Mutuel Wagers in Live Horse Racing

71.   In further support of the misrepresentation that its games are pari-mutuel, Exacta has falsely stated that its wagers and payouts are "just like" those used in live horse racing such that these wagers will be recognized and understood by bettors. For example, as set out above, Exacta's written advertisement distributed at the 2015 Global Gaming Expo (G2E) stated:

How are Payouts Determined?

Like all pari-mutuel pool and payouts, the Encore RBG System rewards players based on the degree of difficulty. Correctly selecting the winners of the three races (what racing fans would call a "Pick Three") pays more than selecting the first two winners (like a "Daily Double"). Picking the correct order of the top three finishers of one of those races (a "Trifecta") in such a scenario creates a larger payout; the top four (a "Superfecta") would return even more. The fact that players can easily recognize and understand these sequences and results adds to the unique attractiveness of the Encore RBG System and its

20

compatibility with live horse racing. Just like in live pari-mutuel horse racing, pools and payouts are constantly changing as players make their bets.

72.   This representation is false and/or misleading because the Encore wagers and payouts do not reward bettors based on degree of difficulty, they are not equivalent to those used in live racing, and they would not be recognized or understood by race track operators, bettors, or regulatory agencies familiar with live racing as being "just like" live racing wagers.

73.   The Exacta System's payouts do not reward bettors based on the degree of difficulty of their wagers. For example, a bettor who correctly identifies the finishing position of every horse in the three races randomly selected by the Triple Race Method except the first and second positions of Race 1 (i.e. 28 positions correct out of 30), which generates a binary pattern of 011 011 111 111 111 111 111 111 111 111 (or converted to a decimal, 469,762,047), will not receive an award. In contrast, a bettor who correctly identifies only the first and second place finishers of Race 1, which generates a binary pattern of 100 100 000 000 000 000 000 000 000 000 (or converted to a decimal, 603,979,776), will be entitled to the award associated with Pay Index 135 of TRM1005.

74.   As a further example of the falsity of this representation, as set out in the table below, if the wagering outcomes in Exacta's representation in paragraph 71 are mapped to the paytable for TRM1005, it is apparent that Exacta's representations – that an equivalent "Pick Three" will pay more than an equivalent "Daily Double" and that an equivalent "Superfecta" will pay more than an equivalent "Trifecta" – are false:

| | | TRM1005 Paytable Mapping | | |
Race Result	Decimal Number	Pay Index	Min. Pay (Credits)	Pool %
Pick 3	939524096	116	115	0.302
Daily Double – Races 1 + 2	805306368	131	40	2.624
Daily Double – Races 2 + 3	402653184	below last Pay Index	0	0
Daily Double – Races 1 + 3	671088640	134	25	3.28

Trifecta - Race 1	612368384	135	20	2.624
Trifecta - Race 2	306184192	below last Pay Index	0	0
Trifecta - Race 3	153092096	below last Pay Index	0	0
Superfecta - Race 1	613416960	134	25	3.28
Superfecta - Race 2	306708480	below last Pay Index	0	0
Superfecta - Race 3	153354240	below last Pay Index	0	0

75.   As demonstrated in the table above, an Exacta "Pick 3" is associated with Pay Index 116, which only pays out 0.302% of the Net Pool when the funds in the Net Pool are greater than the Seed Amount of $20,216.40. In contrast, an Exacta "Daily Double" where the bettor correctly identified the winners of races 1 and 2, or 1 and 3, will pay out 2.624% and 3.28% of the Net Pool, respectively.

76.   Moreover, the payouts do not operate with a consistent internal logic. An Exacta "Daily Double" in which the bettor selected the winners of Races 1 and 2, or 1 and 3, will both pay out an award (albeit different awards) while an Exacta "Daily Double" in which the bettor selected the winners of Race 2 and 3, will not receive any award. Similarly, an Exacta "Trifecta" where a bettor correctly identified the first three finishers of Race 1 will pay out an award, while an Exacta "Trifecta" where a bettor correctly identified the first three finishers in either Race 2 or 3 will not pay out any award. Moreover, the Superfecta (correctly selecting the first four finishers) and the Trifecta pay precisely the same amount in the Exacta System if it is achieved on either Race 2 or Race 3, because the amount is zero in both cases. This is in direct contrast to Exacta's explicit claim that a Superfecta "would return even more." These payouts (or the lack thereof) are fundamentally different than those associated with the same outcomes in live racing wagers, and these payouts would not be recognized or understood by those familiar with live racing wagers as "just like" live racing wagers.

77.   On information and belief, all of the Exacta Math Models operate following this same logic as shown for TRM1005.

22

A Random Number Generator Plays A Major Role in Determining Exacta Game Payouts

78.   Following amendments to Wyoming's pari-mutuel statutes in 2013, on or around October 4, 2013, Instant Racing games were approved by the WPMC in Wyoming.

79.   On or around September 23, 2015, the office of the Attorney General of Wyoming issued an opinion that the Instant Racing games operating in Wyoming were contrary to Wyoming's pari-mutuel statutes because the ultimate outcome was determined, in part, by events that were based upon total chance.

80.   On or around October 2, 2015, the WPMC suspended the operation of Instant Racing games in Wyoming on the basis of the Attorney General's September 23, 2015 opinion.

81.   In representations to Instant Racing customers, the WPMC, and others, Exacta purported to distinguish the Exacta Games from Instant Racing games on the (false) basis that the Exacta Games rely solely on the results of horse races to determine wager outcomes and do not utilize RNGs to generate wager results.

82.   As described in the previous section, the payouts of the Exacta Games are heavily dependent on which of the races -- Race 1, 2, or 3 -- the bettor's correct predictions are associated with. As set out in paragraph 73, a bettor who has only correctly predicted the first and second positions of Race 1 will be entitled to an award, while a bettor who has correctly identified 28 positions other than position 1 and 2 of Race 1 will not be entitled to an award. Similarly, as set out in paragraph 74, the amount of the payout (if any) awarded when a bettor correctly makes an Exacta "Daily Double" wager, depends on the identity of the races in which the bettor correctly selected the winners.

83.   As described in paragraph 38, this factor that affects the payouts -- which race is designated as Race 1, 2 or 3 -- is determined by a RNG.

23

84.   There is equivalent skill in picking the finishing order of each of the three races in the wager, but similarly skillful predictions in different races will yield different payouts based on which race is randomly designated as Race 1, 2, or 3 by the Exacta RNG.

85.   On information and belief, all of the Exacta Math Models operate using Exacta's RNG in this manner.

86.   AmTote developed the Parimax System, which was approved by the WPMC in or around May 31, 2015, and assigned to Parimax in October 2016. Unlike the Exacta Games, the Parimax System does not use a random number generator to determine payouts.

Exacta does not use the Pick (n) Position (x) Rule approved by the ARCI

87.   As set out above, Exacta has falsely advertised that the Exacta Games are "based on a pre-existing ARCI approved pari-mutuel wager", and that they are "compatible with ARCI's model rules" because "[a]ll of the Encore Games have been developed to specifically fit within configurations that the [ARCI] has approved to date."

88.   Furthermore, based on Exacta's representations, racetrack and historic-racing operators have requested regulatory approval for the wagers offered by the Exacta System on the false basis that they comply with ARCI-004-105T: Pick (n) Position (x) apportioning winnings according to Section 5, subsection (e) Method 5, Position (x) with Minor Pool Carryover.

89.   In a Pick (n) Position (x) wager, the Net Pool can be distributed to winning bettors according to one of 10 ARCI subrules, designated as Methods 1 to 10. With respect to Method 5, the Net Pool is apportioned between a major share and a minor share of the Net Pool. Depending on the outcome of wagering, the Net Pool may be distributed as follows:

a.   The major share of the Net Pool will be distributed as a single price pool to bettors that correctly selected all (x) finishers, in exact position, in a minimum specified number of positions in the (n) contests. If there are no

24

wagers that qualify for the major share, the undistributed major share is added to the "carryover", which is a pool of monies that is added to the next scheduled pool.

    b.   If there are no wagers qualifying for the major share, the minor share will be distributed as a single price pool to bettors that correctly selected finishers, in exact position, in the greatest number of positions in a Pick (n) Position (x) contest, but less than the number of positions qualifying for the major share.

    c.   If there are no wagers that qualify for either the major or minor shares of the Net Pool (i.e. no finishers were correctly selected), the major and minor shares of the Net Pool are combined and added to the carryover.

90.   The Exacta System and Games do not comply with the ARCI rule for Pick (n) Position (x) apportioning winnings according to Section 4, subsection (c) Method 5, Position (x) with Minor Pool Carryover, for at least the following reasons:

    a.   The rule mandates that all correct position selections are weighted equally – e.g. there is no preference for bettors that correctly select the first position vs. the last position. *Only the number of correct selections matters.* In contrast, in the Exacta System and Games, there is a preference based on correctly selecting the finishing positions for a race, with the greatest preference associated with correctly selecting the horse that finishes in first place in the first race and the least preference associated with correctly selecting the horse that finishes in tenth position in the third race. As a result of these preferences, the Exacta Games reward outcomes in a fundamentally

25

different manner than the Pick (n) Position (x) rule. For example, as set out in paragraph 73, an Exacta bettor who has only correctly predicted the first and second positions of Race 1 will be entitled to an award, while an Exacta bettor who has correctly identified the 28 positions other than positions 1 and 2 of Race 1 will not be entitled to any award; by contrast, under the Pick (n) Position (x) rule, correctly selecting 28 positions is a better outcome than correctly selecting only two positions.

b.   Method 5, of the Pick (n) Position (x) rule contemplates exactly two pools: a major pool which is distributed as a single price pool if all runners are selected correctly, and a single minor pool that only exists if the major pool is not distributed. This single minor pool is distributed to those who get the most runners correct. Each Math Model of the Exacta System and Games consists of a single pool with hundreds of predetermined shares of the major pool with the major pool never being distributed. For example, the TRM1005 Math Model has 135 predetermined shares.

c.   In Method 5 of the Pick (n) Position (x) rule, a bettor who correctly identifies two or more finishing positions, is entitled to the minor pool of the Net Pool. Instead, the Exacta System and Games have predetermined that a bettor who achieves this wagering result may or may not receive any award depending on the identity of the finishing positions that were correctly selected.

d.   In Method 5 of the Pick (n) Position (x) rule, a bettor who correctly identifies all 30 finishing positions, is entitled to the entire Net Pool. Instead,

the Exacta System and Games have predetermined that a bettor who achieves this result will only receive a small portion of the Net Pool.

Damage to Parimax caused by Exacta's False Advertising

91.   Exacta's misrepresentations and false advertising have harmed Parimax, whose games and systems are compliant with its representations and the pari-mutuel regulations and definitions.

92.   On information and belief, by failing to distribute the Net Pool of the Exacta prize pools in a pari-mutuel manner and in accordance with ARCI-94-105T - Pick (n) Position (x), the Exacta System and Games carry forward money in the pool that would otherwise have been distributed to winning bettors. On information and belief, this undue carry forward allows Exacta to artificially grow the size of its pools, and Exacta is able to attract bettors, and racetrack and historic-racing operators, with the lure of larger pools. The present and future attraction of business by Exacta based on the misrepresentations described herein has caused the loss of business to Parimax and threatens the continued loss of new business from present and future operators of historic racing facilities.

93.   On information and belief, the Exacta System is also designed such that it is possible that the prize pool that is not properly distributed to bettors following a successful wager – i.e., the undue carry forward – will in fact never be distributed to any bettor. Exacta describes the process of the closing of a pool in a document titled "Parimutuel Pool Overview Race Based Gaming System for the Central Determinant Translator." This document describes that when a pool is closed, the supposedly nonrefundable Seed Amount provided by the racetrack can actually be refunded, including with money from bettors' wagers:

> Zeroing the pool will transfer the seed amount into the House Account (refunding the seed to the house) and move any remaining balance to the Player Rewards Account. In the event that the account balance is below the seed value, the maximum amount

27

possible is transferred to the House Account. If the balance is negative, the difference can be recovered from the Player Rewards Account.

This practice unfairly benefits Exacta and harms both the betting public and the competitive position of Parimax.

94.   The Instant Racing and Parimax System products were the results of years of development in conjunction with AmTote. AmTote's primary business is the operation of systems that allow pari-mutuel wagering on horseraces. By contrast, Exacta avoided these development costs by developing a non-pari-mutuel system based on slot machine or VLT[3] logic. In addition to the avoidance of these direct development costs, the use of a system based on slot machine logic has enabled Exacta to save costs on game development. Upon information and belief, 81% of the Exacta Games offered on its website are copies of slot machine games advertised on the website of Intuicode Gaming, a developer of slot machine game titles.

93.   The natural, probable and foreseeable result of Exacta's wrongful conduct is to cause confusion, deceptions and mistake in the HHR market, to deprive Parimax of business and goodwill and to injure Parimax's relationships with existing and prospective historic racing operators.

96.   Exacta's wrongful conduct has resulted in increased sales of the Exacta System and Games while hindering the sales of Parimax's Instant Racing and Parimax HHR products. The present and future attraction of business by Exacta based on the misrepresentations described herein has caused the loss of business to Parimax and threatens the continued loss of new business from present and future operators of historic racing facilities. For example, as a result of Exacta's false and misleading representations regarding the characteristics of its product:

---

[3]   VLTs (video lottery terminals) such as found in the New York State Lottery use a central server to deliver predetermined electronic pull-tab tickets to player terminals. Several of the developers of the Exacta system previously developed the New York lottery system while employed by Multimedia Games.

28

     a.   Wyoming Horse Racing, LLC, a former purchaser of products from Parimax's Instant Racing brand, has purchased the Exacta System and Games instead of Parimax's HHR products;

     b.   On January 7, 2017, Parimax's existing customer, Kentucky racetrack Ellis Park, switched from Parimax's Instant Racing historical horse racing product to the Exacta System and Games; and

     c.   On February 28, 2018, Parimax's existing customer, the partnership between Kentucky racetracks Keeneland and Red Mile, announced that it entered into an agreement with Exacta to install 300 Exacta terminals in April 2018. That customer also decided to simultaneously remove 300 existing Parimax terminals from its site, directly harming Parimax.

97.   In addition to statements made to Parimax's existing customers, Parimax is likely to be damaged as a result of the false statements made to prospective customers, including racetrack and historical racing operators seeking approval to extend historical horse racing to new markets in the United States.

98.   The historical horse racing industry is presently a two-player market, such that any sales of Exacta products will necessarily result in lost sales for Parimax products.

99.   Exacta's false and misleading statements to racetrack operators, actual and potential historical racing operators, and bettors have had, and will continue to have, a negative effect on the entire historical horse racing industry, thereby depriving Parimax of business and goodwill. Contrary to Exacta's representations that the payouts from its system are just like live racing and can be easily recognized and understood by bettors, in fact, the manner in which the Exacta System and Games calculates payouts is not transparent to the betting public or racetrack and historical

racing operators, and these wagers and payouts would not be understood by anyone familiar with live racing. This lack of transparency associated with Exacta's wagers and payouts has had, and will continue to have, a negative effect on Parimax's business and goodwill by undermining the industry's and the betting public's trust in historical horse racing generally.

100.   Parimax has sustained, and will continue to sustain damages as a result of Exacta's false and misleading representations regarding the characteristics of its products.

101.   Allowing Exacta to continue to make the false and misleading representations about its products and to falsely advertise those products, as described herein, will cause immediate and irreparable injury to Parimax unless this conduct is enjoined by the Court.

COUNT I

FALSE ADVERTISING UNDER LANHAM ACT § 43(a), 15 U.S.C. 1125(a)

102.   Parimax hereby repeats, realleges and incorporates by reference the allegations contained in the paragraphs above.

103.   On information and belief, Defendant has made and distributed, in interstate commerce in this District and elsewhere, advertisements that contain false or misleading statements regarding their products. These advertisements contain actual misstatements and/or misleading statements and failure to disclose, including, among others the statements that Exacta's HHR product:

    a.   Is strictly pari-mutuel;

    b.   Does not rely on any random elements to determine the outcome of wagers; and

    c.   Is based on a pre-existing ARCI approved pari-mutuel wager.

104.   On information and belief, these false statements actually deceive, or have a tendency to deceive, a substantial segment of Plaintiff's customers and potential customers –

including those in Wyoming. This deception is material and is likely to influence the purchasing decisions of Plaintiff's customers and potential customers.

105.   Defendant's false and misleading advertising statements and omissions injure Plaintiff's customers, bettors and Plaintiff.

106.   Defendant's false and misleading advertising statements and omissions violate the Lanham Act § 43(a), 15 U.S.C. §1125(a).

107.   Defendant has caused, and will continue to cause, immediate and irreparable injury to Plaintiff, including injury to its business, reputation and goodwill, for which there is no adequate remedy at law. As such, Plaintiff is entitled to an injunction under 15 U.S.C. §1116 restraining Defendant, its agents, employees, representatives and all persons acting in concert with them from engaging in further acts of false advertising, and ordering removal of all Defendant's false advertisements.

108.   Pursuant to 15 U.S.C. §1117, Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's acts in violation of Lanham Act §43(a). Plaintiff is at present unable to ascertain the full extent of monetary damages it has suffered by reason of Defendant's acts.

109.   Pursuant to 15 U.S.C. §1117, Plaintiff is further entitled to recover from Defendant the gains, profits and advantages that it has obtained as a result of its acts. Plaintiff is at present unable to ascertain the full amount of the gains, profits and advantages Defendant has obtained by reason of its acts.

110.   Pursuant to 15 U.S.C. §1117, Plaintiff is further entitled to recover the costs of this action. Moreover, on information and belief, Defendant's conduct was undertaken willfully and

31

with the intention of causing confusion, mistake or deception, making this an exceptional case entitling Plaintiff to recover additional damages and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. For temporary, preliminary and permanent injunctive relief prohibiting Defendant, its agents, or anyone working for, in concert with or on behalf of Defendant from engaging in false or misleading advertising with respect to the Exacta System and Games and or violating Lanham Act § 43(a), which relief includes but is not limited to removal all false or misleading advertisements and corrective advertising to remedy the effects of Defendant's false advertising.

2. For an order requiring Defendant to correct any erroneous impression persons may have derived concerning the nature, characteristics, or qualities of their Exacta HHR System, including without limitation, the placement of correcting advertising providing written notice to the public.

3. That Defendant be adjudged to have violated 15 U.S.C. § 1125(a) by unfairly competing against Plaintiff by using false, deceptive or misleading statements of fact that misrepresent the nature, quality and characteristics of the Exacta HHR System.

4. That Plaintiff be awarded damages Plaintiff has sustained in consequence of Defendant's conduct.

5. That Plaintiff be awarded Defendant's profits obtained by Defendant as a consequence of Defendant's conduct.

6. That such damages and profits be trebled and awarded to Plaintiff as a result of Defendant's willful, intentional and deliberate acts in violation of Lanham Act § 43(a).

7. That Plaintiff recover its costs and reasonable attorneys' fees.

8.   That all Defendant's misleading and deceptive materials be destroyed as allowed under 15 U.S.C. § 1118.

9.   That Plaintiff be granted prejudgment and post judgment interest.

10.   That Plaintiff be awarded such other and further relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff Parimax demands a trial by jury on all claims and factual issues in this action.

RESPECTFULLY SUBMITTED this 12th day of April 2018.

/s/ Ryan L. Ford

Scott E. Ortiz, WSB# 5-2550, sortiz@wpdn.net
Ryan L. Ford, WSB# 7-4667, rford@wpdn.net
WILLIAMS, PORTER, DAY & NEVILLE, P.C.
PO Box 10700
Casper, WY 82602
(307) 265-0700
(307) 266-2306 (facsimile)

Gerard J. Gaeng, GGaeng@rosenbergmartin.com
(pro hac vice)
G. Adam Ruther, ARuther@rosenbergmartin.com
(pro hac vice)
J. Teigen Hall, JTHall@rosenbergmartin.com
(pro hac vice)
Rosenberg Martin Greenberg, LLP
25 South Charles Street, 21st Floor
Baltimore, Maryland 21201
(410) 727-6600
(410) 727-1115 (facsimile)

Tim Gilbert, tim@gilbertslaw.ca
(pro hac vice)
Andrew Moeser, andrew@gilbertslaw.ca
(pro hac vice)
Matthew J. Frontini, mfrontini@gilbertslaw.ca
(pro hac vice)
GILBERT'S LLP
77 King St. West, Suite 2010
Toronto Dominion Centre
Toronto, Ontario M5K 1K2
(416) 703-1100
(416) 703-7422 (facsimile)

33

James M. Hinshaw, jhinshaw@bgdlegal.com
(*pro hac vice*)
BINGHAM GREENEBAUM DOLL LLP
10 West Market Street
2700 Market Tower
Indianapolis, IN 46204
(317) 968-5385
(317) 236-9907 (facsimile)

COUNSEL FOR PLAINTIFF
PARIMAX HOLDINGS, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April 2018, a true and correct copy of the foregoing document was served, first class mail, postage prepaid, to counsel as follows:

Matt J. Micheli
Jeffery S. Pope
JoAnna S. DeWald
Holland & Hart LLP
2515 Warren Avenue; Suite 450
Cheyenne, WY 82003
mjmicheli@hollandhart.com
jspope@hollandhart.com
jsdewald@hollandhart.com

Jay E. Ingle
William A. Hoskins, III
Jackson Kelly, PLLC
175 East Main Street
Lexington, KY 40507
jingle@jacksonkelly.com
whoskins@jacksonkelly.com

/s/ Ryan L. Ford
Ryan L. Ford, Wyo. State Bar # 7-4667

34

Exhibit A

(B) As a single price pool to those who selected the first and second place finishers, in exact order, in at least one of the Exacta (n) contests, based upon the official order of finish.

(C) If there are no wagers which correctly selected the first and second place finishers, in exact order, in at least one of the Exacta (n) contests, based upon the official order of finish, then all Exacta (n) tickets shall become winners and receive 100% of that performance's net Exacta (n) pool and the Exacta (n) carryover pool as a single price pool.

(7) If, for any reason, the Exacta (n) carryover must be held over to the corresponding Exacta (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Exacta (n) carryover plus accrued interest shall then be added to the net Exacta (n) pool of the following meet on a date and performance so designated by the Commission.

Rule
004 - 105 T.   Pick (n) Position (x) Pools

(1) The Pick (n) Position (x) Pool requires selection of the first (x) finishers, in their exact positions, in each of a designated number of (n) contests. For example, in a Four Position Pool (x = 4), the bettor chooses four finishers in each contest. If the bettor has chosen "1, 2, 3 and 4", and the actual finishers are "4, 2, 3 and 1", the bettor has correctly chosen 2 positions [the second and third place finishers.]

(2) The association must obtain written approval from the Commission concerning the scheduling of Pick (n) Position (x) contests, the designation of one of the methods prescribed in Parts 3 and 6, the percentages of the net pool apportioned between the major share of the Position (x) pool and the minor share(s) of the Position (x) pool, and the amount of any cap to be set on the carryover. Any changes to the approved Pick (n) Position (x) format require prior approval from the Commission.

(3) Unless otherwise stated, the major share of the net Pick (n) Position (x) Pool [hereafter, "Position (x) Pool"] shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in a minimum specified number of positions in the (n) contests (considered as a whole) that comprise the Position (x) Pool, based upon the official order of finish. The minimum specified number of positions may be all (x) positions in all (n) contests (for instance, four positions in each of six contests, for a total of 24 positions) or a lesser specified number (for instance, 22 or more accurate positions within the six contests taken as a whole.)

(4) The Pick (n) Position (x) pool shall be apportioned under one of the following methods:

(a) Method 1, Position (x) With No Minor Pool and No Carryover

    (A) The net Position (x) pool shall be distributed in accordance with the method for distributing the major share as described in Part 2, above.

    (B) If there are no wagers qualifying for the major share, the net Position (x) pool shall be distributed as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in Position (x) contests.

    (C) If there are no winning wagers, the entire pool shall be refunded on Position (x) wagers for those contests.

  (b) Method 2, Position (x) With No Minor Pool and Carryover Instead of a Refund

    (A) The net Position (x) pool shall be distributed in accordance with the method for distributing the major share as described in Part 2, above.

    (B) If there are no wagers qualifying for the major share, the net Position (x) pool and the carryover shall be distributed as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in Position (x) contests.

    (C) If there are no winning wagers, the net Position (x) pool shall be added to the carryover.

  (c) Method 3, Position (x) With No Minor Pool and Carryover

    (A) The net Position (x) pool shall be distributed in accordance with the method for distributing the major share as described in Part 2, above.

    (B) If there are no wagers qualifying for the major share, the net Position (x) pool shall be added to the carryover.

  (d) Method 4, Position (x) With Minor Pool and No Carryover

    (A) The major share of the net Position (x) pool shall be distributed in accordance with the method for distributing the major share as described in Part 2, above.

    (B) The minor share of the net Position (x) pool shall be distributed as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in Position (x) contests (but less than the number of positions qualifying for the major share), based upon the official order of finish.

    (C) If there are no wagers qualifying for the major share, the major share of the net Position (x) pool shall be combined with the minor share for distribution as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in Position (x) contests.

(D) If there are no wagers correctly selecting any finishers, in exact position, in Position (x) contests, other than winners of the major share of the net Position (x) pool, the minor share of the net Position (x) pool shall be combined with the major share for distribution as a single price pool to those who qualified for the major share.

(E) If there are no winning wagers, the pool shall be refunded on Position (x) wagers for those contests.

(e) Method 5, Position (x) With Minor Pool and Carryover

(A) The major share of the net Position (x) pool shall be distributed in accordance with the method for distributing the major share as described in Part 2, above.

(B) The minor share of the net Position (x) pool shall be distributed as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in Position (x) contests (but less than the number of positions qualifying for the major share), based upon the official order of finish.

(C) If there are no wagers qualifying for the major share, the minor share of the net Position (x) pool shall be distributed as a single price pool to those who correctly selected finishers, in exact position, in the greatest number of positions in Position (x) contests, and the major share shall be added to the carryover.

(D) If there are no wagers correctly selecting any finishers, in exact position, other than winners of the major share of the net Position (x) pool, the minor share of the net Position (x) pool shall be combined with the major share for distribution as a single price pool to those who qualified for the major share, or if there are no such winning wagers, added to the carryover.

(f) Method 6, Position (x) With Minor Pool(s) and Carryover

(A) The major share of the net Position (x) pool shall be distributed in accordance with the method for distributing the major share as described in Part 2, above.

(B) A principal minor share of the net Position (x) pool may be designated, and distributed as a single price pool, to those who correctly selected finishers, in exact position, in the greatest number of positions in Position (x) contests (but less than the number of positions qualifying for the major share), based upon the official order of finish.

Page 115
The Association of Racing Commissioners International
Model Rules of Racing
Version 6.0
Approved by ARCI Board of Directors
July 16, 2015

(C) Additional minor shares of the net Position (x) pool may be designated, and distributed as single price pools, to those who correctly selected the designated number, or range, of finishers, in exact position, in Position (x) contests (but less than the number of positions qualifying for the major share), based upon the official order of finish.

(D) Those qualifying for the principal minor share may also qualify for one of the additional minor shares. When this occurs, the two unbroken prices shall be summed before surcharging or rounding the prices for breakage. For example:

   (i) Suppose there are $5 of wagers correctly selecting 12 positions, $3 of wagers selecting 13 positions, and $2 of wagers selecting 14 positions, and 14 is the greatest number of positions correctly selected.

   (ii) Suppose that the principal minor share of the net pool is $20,000.16. Further, one of the other minor shares is designated for a range of 12 to 15 positions, and this share of the net pool is $10,000.80. (These amounts are chosen only to illustrate the following steps.)

   (iii) Then the principal minor share is divided among those selecting 14 positions, and the other minor share is divided among all the wagers selecting 12, 13, and 14 positions, so the 14-position winners receives the sum of two winning prices.

   (iv) The principal minor share $20,000.16 divided among the $2 of 14-position winners yields an unbroken price of $10,000.08 per dollar, and the other minor share $10,000.80 divided among the $10 of 12, 13, and 14-position winners yields an unbroken price of $1,000.08 per dollar.

   (v) The sum $10,000.08 + $1,000.08 = $11,000.16 is the combined unbroken price for choosing 14 finishers.

   (vi) If the rounding for breakage is to the next lower $0.10, the final broken prices are $11,000.10 for 14 finishers, and $1,000.00 for 12 or 13 finishers.

(E) The commission shall approve the number of minor shares, and the designated number, or range, of finishers, in exact position, in Position (x) contests qualifying as the winning selection in any such minor share.

(F) If there are no wagers qualifying for the major share, the major share shall be added to the carryover. If there are no wagers qualifying for a designated minor share, the minor share of the net Position (x) pool shall

<div align="center">
Page 114
The Association of Racing Commissioners International
Model Rules of Racing
Version 6.0
Approved by ARCI Board of Directors
July 16, 2015
</div>

be combined with the major share for distribution as a single price pool to those who qualified for the major share, or if there are no such winning wagers, added to the carryover.

(g) Method 7, Position (x) With Minor Pool(s) Based Upon Any One Contest, and No Carryover

    (A) The major share of the net Position (x) pool shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in each (or a specified minimum number) of the Position (x) contests, based upon the official order of finish.

    (B) The minor shares of the net Position (x) pool shall be distributed as single price pools to those (including recipients of the major share of the net Position (x) pool) who selected all (x) finishers, in exact position, in at least one of the Position (x) contests, based upon the official order of finish, as follows:

    (C) There may be separate minor pools for those who selected all (x) finishers, in exact positions of finish, in the most Position (x) contests, those who selected all (x) finishers, in exact positions of finish, in the second most position (x) contests, and so forth down to those who selected all (x) finishers, in exact positions of finish, in one position (x) contest. Not all such minor shares need to be designated for the wager.

    (D) If there are no wagers qualifying for the major share, the major share of the net Position (x) pool shall be combined with the highest level minor share for distribution as a single price pool. If there are no wagers qualifying for a designated minor share of the net Position (x) pool, that minor share shall be combined with the next (lower) minor share for distribution as a single price pool.

    (E) If there are no winning wagers, the pool is refunded.

(h) Method 8, Position (x) With Minor Pool(s) Based Upon Any One Contest, and Carryover

    (A) The major share of the net Position (x) pool and the carryover, if any, shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in each (or a specified minimum number) of the Position (x) contests, based upon the official order of finish.

    (B) The minor shares of the net Position (x) pool shall be distributed as single price pools to those (including recipients of the major share of the net Position (x) pool) who selected all (x) finishers, in exact position, in at

Page 117
The Association of Racing Commissioners International
Model Rules of Racing
Version 6.0
Approved by ARCI Board of Directors
July 16, 2015

least one of the Position (x) contests, based upon the official order of finish, as follows:

(C) There may be separate minor pools for those who selected all (x) finishers, in exact positions of finish, in the most position (x) contests, those who selected all (n) finishers, in exact positions of finish, in the second most position (x) contests, and so forth down to those who selected all (x) finishers, in exact positions of finish, in one position (x) contest. Not all such minor shares need to be designated for the wager.

(D) If there are no wagers qualifying for the major share, the major share shall be added to the carryover.

(E) If there are no wagers selecting all finishers, in exact position, in a number of the Position (x) contests that qualify for a designated minor share, that minor share of the net Position (n) pool shall also be added to the carryover.

(I) Method 9, Position (x) With Minor Pool(s) Based Upon Any One Contest, and Carryover

(A) The major share of the net Position (x) pool and the carryover, if any, shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in each (or a specified minimum number) of the Position (x) contests, based upon the official order of finish.

(B) The minor shares of the net Position (x) pool shall be distributed as single price pools to those (including recipients of the major share of the net Position (x) pool) who selected all (n) finishers, in exact position, in at least one of the Position (X) contests, based upon the official order of finish, as follows:

(C) There may be separate minor pools for those who selected all (x) finishers, in exact positions of finish, in the most position (x) contests, those who selected all (x) finishers, in exact positions of finish, in the second most position (x) contests, and so forth down to those who selected all (x) finishers, in exact positions of finish, in one position (x) contest. Not all such minor shares need to be designated for the wager.

(D) If there are no wagers qualifying for the major share, the major share shall be added to the carryover.

(E) If there are no wagers selecting all finishers, in exact position, in a number of the position (x) contests that qualify for a designated minor share, that minor share of the position (x) pool shall be added to the next (lower) minor share of the position (x) pool. If there is no lower

designated minor share of the position (x) pool, the minor share shall also be added to the carryover.

(J) Method 10, Position (x) With Minor Pool Based Upon Any One Contest, and Carryover; 100% Carryover If no Winning Wagers

    (A) The major share of the net Position (x) pool and the carryover, if any, shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in each (or a specified minimum number) of the Position (x) contests, based upon the official order of finish.

    (B) The minor share of the net Position (x) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers, for each of the Position (x) contests considered separately, in which all (x) finishers, in exact position, were correctly selected, based upon the official order of finish. The minor share of the net Position (x) pool shall be distributed as a single price pool to those (including recipients of the major share of the net Position (x) pool) who selected all (x) finishers, in exact position, in one or more of the Position (x) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of Position (x) contests in which the recipient correctly selected the winning combination.

    (C) If there are no wagers qualifying for the major share, the major share shall be added to the carryover. If there are no winning wagers, the minor share shall also be added to the carryover.

(5) Apportionment of Net Position (x) Pool Between Major and Minor Pool(s)

The commission shall approve the method of apportioning the net Position (x) pool between winners of the Major share of the Position (x) pool and winners of the Minor share(s) of the Position (x) pool.

Example (utilizing Method 8): A Four Position Pool (x = 4) consisting of 5 contests (n = 5.) The major share goes to those who correctly choose all 20 positions. Assume the commission has approved three minor shares: The highest minor share goes to those who have picked all positions, in exact order, in 4 of the contests. The next minor share goes to those who have picked all positions, in exact order, in 3 of the contests. The final minor share goes to those who have picked all positions, in exact order, in 1 or 2 of the contests. One apportionment of payouts could be 40% of the net Position (x) pool for the major share, and 20% of the net Position (x) pool for each of the three minor shares. Another apportionment of payouts could be 50% of the net Position (x) pool for the major share, 25% for the highest minor share, 15% to the next minor share, and 10% to the final minor share.

(6) Dead Heats. In the event of a dead heat in any of the Position (x) contests, based upon the official order of finish:

     (a) For purposes of determining whether a wager correctly selected the finishers, in exact position, contestants in a dead heat are deemed to jointly occupy both (or all) positions in the dead heat. For example, if 5 and 6 finish in a dead heat for first, then a selection of 5 for either first or second is correct, and a selection of 6 for either first or second is also correct.

     (b) Each share of the net Position (x) pool shall be distributed as a single price pool regardless of dead heats.

(7) Scratches

     (a) If, due to a late scratch, the number of betting interests in a contest of the Position (x) pool is reduced to fewer than (x), for purposes of the Position (x) pool only, such contest shall be declared "no contest" and the Position (x) pool shall be subject to the rules set forth in the "Cancelled Contests" section (Part 7) of these rules.

     (b) Should a betting interest in any contest of the Position (x) pool be scratched or excused from the contest, no more wagers shall be accepted selecting that scratched contestant.

     (c) Existing wagers that select a scratched betting interest shall be handled under one of the following methods. The Commission shall make its determination of which of these alternatives shall apply at the time of approving the wagering pool, which alternative shall remain in effect until and unless changed by the Commission.

         (A) Method 1. Substitute a higher contestant number;

            (i) The next higher live contestant number that is not already part of the wager shall be substituted for the scratched contestant number. If no higher contestant number is eligible, the search shall then proceed upward from contestant number 1.

            (ii) If a wager selects more than one scratched contestant for a contest, the substitutions shall begin with the lowest scratched contestant number in the wager and proceed in order to the highest.

            (iii) Substitution shall be performed on the basis of single wagers, regardless of whether a wager was placed as part of any type of multiple wager format such as "box" or "wheel".

            (iv) The totalisator shall produce reports showing each of the wagering combinations with substituted contestants which became winners as

a result of the substitution, in addition to the normal winning combination.

(B) Method 2, Substitute favorite contestant number:

(i) The actual favorite, as evidenced by total amounts wagered in the Win pool at the close of wagering on that contest, shall be substituted for the scratched contestant for all purposes, including pool calculations.

(ii) If the Win pool total for two or more favorites is identical, the substitute selection shall be the contestant with the lowest contestant number not already selected in the wager as part of the contest.

(iii) If such favorite has already been selected in the wager as part of the contest, the next favorite(s) shall be used, as evidenced by the total amounts wagered in the Win pool, ordered from the highest amount to the lowest.

(iv) If a wager selects more than one scratched contestant for a contest, the substitutions shall begin with the lowest scratched contestant number in the wager and proceed in order to the highest.

(v) Substitution shall be performed on the basis of single wagers, regardless of whether a wager was placed as part of any type of multiple wager format such as "box" or "wheel".

(vi) The totalisator shall produce reports showing each of the wagering combinations with substituted contestants which became winners as a result of the substitution, in addition to the normal winning combination.

(C) Method 3, Scratched contestant wins

(i) The scratched contestant is deemed to be a correct selection of a winning finisher, for purposes of the Position (x) pool only.

(ii) The totalisator shall produce reports showing each of the wagering combinations which became winners as a result of the scratched contestants, in addition to the normal winning combination.

(D) Method 4, Scratched contestant loses:

(i) The scratched contestant is deemed to be a loser, for purposes of the Position (x) pool only.

(ii) Other correctly selected finishers in a wager shall continue to count toward winning, as usual.

(3) Cancelled Contests

Page 121
The Association of Racing Commissioners International
Model Rules of Racing
Version 6.0
Approved by ARCI Board of Directors
July 16, 2015

(a) If any of the Position (x) contests are cancelled or declared "no contest" prior to the first Position (x) contest being declared official, the entire Position (x) pool shall be refunded on Position (x) wagers for those contests.

(b) If all remaining Position (x) contests are cancelled or declared "no contest" after the first Position (x) contest is declared official, the entire net Position (x) pool, but not the Position (x) carryover, shall be distributed as a single price pool to wagers selecting the winning combination in the first Position (x) contest. However, if there are no wagers selecting the winning combination in the first Position (x) contest, the entire Position (x) pool shall be refunded on Position (x) wagers for those contests.

(c) If any of the remaining Position (x) contests are cancelled or declared "no contest" after the first Position (x) is declared official, the net Position (x) pool shall be distributed in accordance with rules governing distribution of the minor share(s) where there is no winner of the major share. If there is more than one minor share, the entire net Position (x) pool, but not the Position (x) carryover, shall be divided amongst the minor share(s), in accordance with the Apportionment section (Part 3) of these rules, in proportion to the designated percentages, or by some other method approved by the Commission.

(d) If any of the remaining Position (x) contests are cancelled or declared "no contest" after the first Position (x) is declared official, and the net Position (x) pool has been designated for distribution in accordance with the Mandatory Distribution section (Part 9) of these rules, the rules governing mandatory distribution shall apply.

(9) Carryover Cap. The Position (x) carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Position (x) carryover equals or exceeds the designated cap, the Position (x) carryover will be frozen until it is won or distributed under other provisions of these Position (x) rules. After the Position (x) carryover is frozen, the part of the net pool that ordinarily would be added to the Position (x) carryover shall be distributed to those whose selection finished in the highest level of the minor share(s) of the Position (x) for that performance.

(10) Mandatory Distribution

(a) A written request for permission to distribute the Position (x) carryover on a specific performance may be submitted to the Commission. The request shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. The association must notify the Commission at least 10 days prior to implementation. If the Position (x) pool cannot be distributed during a

designated performance, the mandatory distribution shall resume on the next approved mandatory distribution performance.

(b) If the Position (x) carryover is designated for distribution on a specified date and performance, and if there are no wagers qualifying for the major share, then the following precedence shall be followed in determining winning wagers for the net Position (x) pool and the carryover pool:

(A) If the method chosen in Part 3 is method 7, 8, 9, or 10, then:

(B) The major share and the Position (x) carryover shall be distributed as a single price pool to those who selected all (x) finishers, in exact position, in the most individual Position (n) contests, based upon the official order of finish. Designated minor shares may still be awarded;

(C) If the method chosen in Part 3 is 1, 2, 3, 4, 5, or 6, then:

(D) The major share and the Position (x) carryover shall be distributed as a single price pool to those who correctly selected the most finishers, in their exact positions, in the Position (n) contests, based upon the official order of finish. Designated minor shares may still be awarded.

(E) If there are no wagers which qualified for distribution of the major share, then all Position (x) tickets shall become winners and share 100% of that performance's net Position (x) pool and the Position (x) carryover pool as a single price pool.

(c) The Position (x) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(A) Upon written approval from the Commission as provided in Part 9a) of the Position (x) rules.

(B) Upon written approval from the Commission when there is a change in the carryover cap or when the Position (x) wager is discontinued.

(C) On the closing performance of the meet.

(d) If, for any reason, the Position (x) carryover must be held over to the corresponding Position (x) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Position (x) carryover plus accrued interest shall then be added to the net Position (x) pool of the following meet on a date and performance so designated by the Commission.

(11) Coupled entries and mutuel fields

(a) Coupled entries and mutuel fields may be permitted in Position (x) contests with the written approval of the Commission.

(b) Contestants coupled in wagering as a coupled entry or mutuel field shall be considered part of a single betting interest for the purpose of price calculations and distribution of Position (x) pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestants in that coupled entry or mutuel field shall remain valid betting interests and no refunds will be granted. If all contestants within a coupled entry or mutuel field are scratched, then the Scratches section (Part 6) of these rules shall apply.

(c) For the purpose of Position (x) price calculations only, coupled entries and mutuel fields shall be calculated as a single finishing contestant, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule shall apply to all circumstances, including situations involving a dead heat. For example, if the actual order of finish in a contest is 1 / 2 / 1A / 3 / 4, then the finishers used for that contest of the Position (x) would be 1 / 2 / 3 / 4.

(12) With the written approval of the Commission, the association may contribute to the Position (x) carryover, or to the major or minor share(s) of the Position (x) pool, a sum of money up to the amount of any designated cap.

U.   The Team Wager Pool

(1) The Team Wager Pool requires selection of a designated "team" in each of a designated number of contests. Winning bets shall be determined based upon the official order of finish in each contest and the standing of each team with respect to the official order of finish. For purposes of the Team Wager, finishers from the same team shall be bracketed together to determine a single betting interest, as set forth in Part 3.

(2) Prior to the start of the contests that comprise the Team Wager, all participants in each of the contests shall be divided by the association between or among each of the Team Wager teams, and the roster of each team made public, as well as the number of points to be awarded to the team whose member is the first finisher in a designated contest, the second finisher, and so forth until no more points are awarded in that contest.

(3) At the conclusion of all contests that comprise the Team Wager, the number of points for each team shall be compiled, and the team with the most points shall be declared the "winning team."

(4) The Team Wager pool shall be apportioned under either of the following methods:

(a) Winning Margins Team Wager

(A) In the "Winning Margins Team Wager", the total number of points awarded in the Team Wager shall be divided by the association into a

Exhibit B

 ENCORE

Model TRM1006 Specifications

Details Based On:
ARCI-004-105T which can be found in the pari-mutuel wagering section of the Association of Racing Commissioners International Model Rules.

Game Themes Associated with Model
Brave Spirit, Major Cash, Turtle Fortune, Conquistador

Methods of Picking Horses:
Model TRM1006 utilizes the Triple Race Method requiring selection of one or more finishers in one or more of three contests selected randomly from a historical library of previously run contests. The player may accept the suggested finishing order as handicapped by the system, or arrange the order of the horses prior to starting the game by examining one or more charts including past performance information showing the relative merits of the contestants.

Wager Amount:
Terminal wager amount is determined by the minimum wager allowed multiplied by the selected wager level. Minimum wager is 20 credits. Maximum model wager is twelve times minimum wager amount.

Model TRM1006	December 23, 2014

ENCORE

Game Features:

Pay lines and bonus features displaying winning values are for entertainment purposes only and are a result of the outcome solely determined by the player selected horse order and pays the proportional pool payouts defined in the Ways to Win section.

Ways to Win:

Wagers qualify to win based on the quantity, rank, and race number (first, second, or third race) correctly predicted by the player where:

    a. Position 1 (Win) of the first race is the most significant prediction.

    b. Position 1 (Win) of the second race is the second most significant prediction.

    c. Position 1 (Win) of the third race is the third most significant prediction.

    d. Position 2 (Place) of the first race is the fourth most significant prediction.

    e. Position 2 (Place) of the second race is the fifth most significant prediction.

    f. Position 2 (Place) of the third race is the sixth most significant prediction.

    g. Position 3 (Show) of the first race is the seventh most significant prediction.

    h. Position 3 (Show) of the second race is the eight most significant prediction.

    i. And so on until position 10 of the third race is the least significant prediction.

Pool Split/Seed Pool/Minimum Pay:

After the applicable takeout has been deducted from a wager, the remaining amount shall be apportioned to a single prize pool which has been carried over from previous contests. The winning prize shall be the portion of the prize pool published for the combination of horses correctly predicted for the specific pool being played by the player. Each pool offered will advertise 1 or more prizes and their associated winning combinations. Minimum pay figures are for minimum wager. Pays are multiplied by wager level.

Takeout:		10.00%		
Total Prize Pool:		90.00%	Seed @ $0.01:	$ 20216.40
Pay Index	Minimum Pay	Pool%	Win Map Start	Win Map End
1	20300	2.533%	1071661060	1073741823
2	15050	0.078%	1071644737	1071661059
3	10500	0.065%	1071187145	1071644736
4	8000	0.042%	1070880295	1071187144
5	7700	0.040%	1070727169	1070880297
6	7600	0.040%	1070604865	1070727168
7	6900	0.034%	1070595120	1070604864
8	5000	0.026%	1070269440	1070595119
9	4700	0.024%	1070137500	1070269439
10	4040	0.021%	1070075909	1070137459
11	3100	0.016%	1070071808	1070075908
12	3000	0.020%	1069810704	1070071807

Model TRM1005   December 23, 2014

ENCORE

13	2750	0.016%	1069687200	1069840703
14	2450	0.016%	1069629476	1069687189
15	2100	0.014%	1069589584	1069529475
16	2000	1.050%	1063780388	1069589583
17	1900	0.050%	1063356506	1063780367
18	1800	0.047%	1063258246	1063356505
19	1700	0.037%	1059137408	1063258245
20	1650	0.087%	1059078148	1059137408
21	1600	0.084%	1069062261	1059078145
22	1550	0.081%	1068830944	1059062280
23	1500	0.984%	1056997380	1058830943
24	1450	0.190%	1056968840	1056997379
25	1400	0.184%	1056964928	1056968839
26	1350	0.177%	1056964610	1056964927
27	1500	0.171%	1054066144	1056964609
28	1275	0.187%	1053097396	1054086143
29	1250	0.184%	1052272451	1053097395
30	1225	0.181%	1051197472	1052272450
31	1200	0.157%	1050445840	1051197471
32	1100	0.146%	1049695248	1050445839
33	1075	0.141%	1049624576	1049695247
34	1050	0.138%	1048987657	1049624575
35	1025	0.134%	1048717314	1048987656
36	1000	0.197%	1046600582	1048717313
37	980	0.193%	1048577024	1046600581
38	920	0.181%	1048576000	1048577023
39	900	0.236%	1045562372	1048575999
40	880	0.231%	1044908066	1045562371
41	880	0.226%	1044471845	1044908065
42	800	0.830%	1042433284	1044471844
43	750	0.614%	1041236484	1042433283
44	700	0.581%	1040451534	1041236483
45	680	0.892%	1040191779	1040451533
46	660	0.888%	1035995650	1040191778
47	640	0.840%	1031799824	1035995849
48	620	0.814%	1026031625	1031799823
49	600	0.707%	1024468786	1026031624
50	590	0.774%	1023476304	1024459785
51	580	0.761%	1023410304	1023476303
52	570	0.748%	1016314753	1023410303
53	560	0.735%	1016070801	1016314752

Model TRM1005   December 23, 2014

ENCORE

54	550	0.722%	1015088131	1015070500
55	540	0.709%	1015021600	1015088130
56	530	0.695%	1011108004	1015021599
57	520	0.682%	1010827287	1011108003
58	510	0.669%	1008754688	1010827266
59	500	0.656%	1007834176	1008754687
60	490	0.900%	1007190016	1007834175
61	480	0.632%	1006895104	1007190015
62	470	0.869%	1006690304	1006895103
63	460	0.845%	1006833617	1006690303
64	450	0.827%	1006833217	1006833616
65	440	0.808%	1006632950	1006833216
66	430	0.903%	994091528	1006632959
67	420	0.892%	990643200	994091527
68	410	0.851%	989858483	990643199
69	400	0.945%	982515720	985858462
70	390	0.921%	979370024	982515719
71	380	0.898%	977305800	979370023
72	370	0.874%	975242498	977305599
73	360	0.860%	974127180	975242495
74	350	0.827%	973344791	974127179
75	340	0.692%	973113348	973344790
76	330	0.866%	973079588	973113344
77	320	0.840%	973078528	973079587
78	310	0.814%	964691975	973078527
79	300	0.767%	960499712	964691974
80	295	0.387%	958930944	960499711
81	290	0.381%	958443704	958930944
82	285	0.374%	958398488	958443703
83	280	0.367%	957354624	958398487
84	275	0.433%	956825860	957354623
85	270	0.425%	956563456	956825859
86	265	0.417%	956366854	956563455
87	260	0.409%	956313600	956366853
88	255	0.402%	956302356	956313599
89	250	0.884%	952111177	956302355
90	245	0.386%	949469776	952111176
91	240	0.378%	948436992	949469775
92	235	0.370%	947976336	948436991
93	230	0.362%	947814802	947976335
94	225	0.531%	945916632	947814801

Model TRM1005   December 29, 2014

ENCORE

95	220	0.345%	944572258	945946631
96	215	0.564%	943753223	944522255
97	210	0.551%	943718409	943763222
98	205	0.325%	942276840	943718407
99	200	0.525%	941654033	942276639
100	195	0.307%	941621780	941654032
101	190	0.499%	940834820	941621779
102	185	0.388%	940576768	940834819
103	180	0.378%	940311552	940576767
104	175	0.459%	940049409	940311551
105	170	0.357%	939351808	940049408
106	165	0.390%	939786272	939851807
107	160	0.378%	939656224	939786271
108	155	0.365%	939592704	939656223
109	150	0.767%	939540516	939592703
110	145	0.304%	939532290	939540515
111	140	0.367%	939526176	939532289
112	135	0.283%	939524736	939526175
113	130	0.273%	939524258	939524735
114	125	0.328%	939524116	939524257
115	120	0.252%	939524098	939524115
116	115	0.302%	931168258	939524097
117	110	0.208%	920654338	931168265
118	105	0.220%	915177472	920654337
119	100	1.050%	906133508	915177471
120	99	0.249%	905977938	906133507
121	90	0.590%	891818272	905977837
122	85	0.555%	885276929	891818271
123	80	1.050%	877789203	885276928
124	75	1.476%	872677398	877789202
125	70	1.378%	872415232	872677397
126	65	1.706%	843055670	872415231
127	60	1.575%	838868994	843055669
128	55	2.387%	813727856	838868993
129	50	2.524%	806355558	813727855
130	45	2.952%	805307201	806355558
131	40	2.624%	746618884	805307200
132	35	3.674%	689176612	746618883
133	30	3.997%	671162368	689176611
134	25	3.290%	612385154	671162367
135	20	2.876%	578945026	612385153

Model TRM1005   December 23, 2014

Exhibit C

Case 1:16-cv-00259-ABJ   Document 48   Filed 04/12/18   Page 55 of 59

TRM10CS	23-Dec-10					
Takeout:		10.00%				
Total Prize Pool		90.00%	Send @ $100:	$20216.40		
Pay Index	Minimum Pay	Pool %	Win Map Start	Win Map End	Win Map Start Binary	Win Map End Binary
1	20300	2.533%	1071661060	1073741823	1111111110568801000086800040188	111111111111111111111111110111111
2	15060	0.079%	1071644737	1071661059	11111111108488894888801908891	1111111100999019999999090811
3	10500	0.055%	1071187145	1071644736	111111111811901800401001104100	111111111108990040408000100000
4	8000	0.042%	1070860298	1071187144	111111181910900080100090021818	111111181100180288810031001888
5	7700	0.040%	1070727169	1070860297	111111181001999p900000000081	111111181810000001800000221061
6	7600	0.040%	1070604865	1070727168	11111111011000008100901901009901	11111011010010000008002000000
7	6900	0.034%	1070590120	1070604864	11111111910300008800009008011888	111111181090000018000100100808080
8	5000	0.026%	1070269440	1070590119	111111110910211000001000008808	11111110190100000088000000010111
9	4700	0.025%	1070137500	1070269439	1111112101010000000000100100188	1111111881011000000111111111111
10	4040	0.021%	1070075909	1070137499	11111111991090009110800008800101	1111111889100100008888010011011
11	3100	0.016%	1070071808	1070075908	1111111101800008880000088000000	111111191000100000001000000000100
12	3000	0.020%	1069810704	1070071807	111111100010000080001800010000	3111111110090111111111111111111
13	2750	0.014%	1069687300	1069810703	1111111100090100010000110100000	1111111100010000000001000000100
14	2450	0.013%	1069529476	1069687199	11111111000000101000000800100000	1111111188000100001000010001111
15	2100	0.011%	1069581584	1069529475	1111111109080001800000001001000	111011100000010100000009019011
16	2000	1.050%	1063710369	1069581583	1111118110180000080000088001808	3111111110090003010001091001111
17	1400	0.050%	1063353606	1063710367	111111811000011000010000181110110	11111011001010000000000000001111
18	1800	0.047%	1063254246	1063356505	11111181109990999010001000000110	31111100010000110001000001011001
19	1700	0.037%	1059137408	1063255145	1111110010000010010001110000001	1111110110000000001000100000101
20	1650	0.087%	1059073146	1059137407	1111180100000001000000000000018	11111188100000010001001100000000
21	1600	0.084%	1059062281	1059073145	11111109900009000000000000001	1111110101800000100000008000001
22	1550	0.081%	1058930944	1059062180	11111000011110088000100000000	11111001990000000000000001000
23	1500	0.084%	1056997380	1058930943	111111000000000180000000000100	11111000011100000000001111111
24	1450	0.190%	1056965840	1056997379	111111808000000010000100001900	1111100000100000000000000001
25	1400	0.184%	1056964918	1056964839	1111110000008800000000100000088	11111100000070000100000010000111
26	1350	0.177%	1056064610	1056964917	1111110000090000000000000000010	111111000000000000000000101111
27	1300	0.173%	1054086144	1056964609	11111001010100000010100000000000	111110000000000000000000000001
28	1275	0.167%	1053097996	1054086143	111110110000100000000000000010	11111001010010000010001111111111
29	1250	0.164%	1052772451	1053097995	111110110000000000010000110011	111110110010000000000000000011

TRM1005	23-Dec-14					
Takeout:		10.00%				
Total Prize Pool		90.00%	Seed @ $0.03:	$20216.40		
					Win Map Start Binary	Win Map End Binary
Pay Index	Minimum Pay	Pool %	Win Map Start	Win Map End		
30	1225	0.161%	1051197472	1052772650	1111130101810040000000000100000	1111101010000000001000010000100
31	1200	0.157%	1050445840	1051197471	1111103001100100010000010000	1111101010010000000000000011111
32	1100	0.144%	1049635248	1050445839	1111910100100010001010000010000	11111101001110010011100000201111
33	1075	0.141%	1049624576	1049635247	1111101001000000000000000000000	1111101001000100001010000001111
34	1050	0.138%	1048987657	1049624575	1111101000001100100010000001001	1111101000011111111111011111011
35	1025	0.134%	1048717314	1048987656	1111101000001000101000000000010	11111010000011001001000000001000
36	1000	0.197%	1048600582	1048717313	1111010100000000011000000000110	11111010100000100001000000000001
37	980	0.193%	1048577024	1048600581	1111101000000000000010000000000	1111111000000000010011110111111
38	920	0.183%	1048576000	1048577023	1111101000000000000000000000000	11110101000000000010001110101111
39	900	0.236%	1045562372	1048575999	1111001010010100000001000000100	1111100010100100000001000000001
40	830	0.331%	1044906066	1045562371	1111100100100010110000000100101	11111001001010000000100000010001
41	850	0.226%	1044471845	1044906065	1111100010001001100010100000100	1111100100010010100000000100100
42	800	0.630%	1042433284	1044471844	11111000100010001000101000000000	11110010010000101000000000100000
43	780	0.614%	1041236484	1042433283	1111000001000000000010000000100	11111001100010010100100000100011
44	700	0.551%	1040451584	1041236483	11111000001000000000010000000000	11111001000100000000010000000011
45	680	0.892%	1040191778	1040451583	1111100000000000000010000000001	1111100000010000000011111111111
46	660	0.866%	1035995650	1040191777	111100110000100000010100000010	1111100000100000000100010000010
47	640	0.860%	1031799824	1035995649	1111001100000000000010000010000	11110011000000000000010000001001
48	620	0.818%	1026031625	1031799823	1111010010010100000000000001001	11110010010010000000000000001000
49	600	0.787%	1024453788	1026031624	1111010000100010000001000010000	11110100010100000000000000001000
50	590	0.771%	1023476304	1024453765	11110100000001010000010001010000	11110101000000001000000010010001
51	580	0.761%	1023410304	1023476303	1111010010100000000000010000000	11110100000000000000000010001111
52	570	0.748%	1016314753	1023410303	1111010101000100000000000000001	11110100000000000000000001111111
53	560	0.735%	1016070601	1016314752	1111001001000000000001010100001	11110010110100100000000000000000
54	550	0.722%	1015088133	1016070500	1111001000000010000010000000011	1111001001000000000000101000100
55	540	0.709%	1015021600	1015088130	11110010000000000000000100000000	11110010000000010000011000000010
56	530	0.695%	1011108004	1015021569	1111000100010100100010001010100	1111100100000000000000000010111
57	520	0.681%	1010827267	1011108003	1111000100000000000000000000011	1111000100010000100000010100011
58	510	0.666%	1008754680	1010827266	1111000010000000000000000000000	11110000100000000000000000000010

T&M1005	23-Dec-14					
Takeout:		10.00%				
Total Prize Pool		90.00%	Seed @ $0.01:	$20216.40		
Pay Index	Minimum Pay	Pool %	Win Map Start	Win Map End	Win Map Start Binary	Win Map End Binary
59	500	0.656%	1007834276	1008754587		
60	n/a	0.000%	1007190016	1007834175		
61	480	0.882%	1006895104	1007190015		
62	470	0.863%	1006690304	1006895103		
63	460	0.845%	1006639617	1006690303		
64	450	0.827%	1006633217	1006639616		
65	n/a	0.306%	1006632960	1006633216		
66	430	0.903%	990391528	1006632959		
67	420	0.832%	990643200	994091527		
68	410	0.861%	989858683	990643199		
69	400	0.945%	982515770	989858682		
70	390	0.921%	979370024	982515719		
71	380	0.898%	977306600	979370023		
72	370	0.874%	975242496	977306599		
73	360	0.850%	974127180	975242495		
74	350	0.827%	973344791	974127179		
75	340	0.832%	973113345	973344790		
76	330	0.846%	973079583	973113344		
77	320	0.840%	973078528	973079587		
78	310	0.814%	964691973	973078527		
79	300	0.787%	960499712	964691074		
80	295	0.387%	958930943	960409711		
81	290	0.381%	958448700	958930844		
82	285	0.374%	958398488	958448703		
83	280	0.367%	957334624	958398487		
84	275	0.433%	956825460	957334623		
85	270	0.425%	956553456	956825559		
86	265	0.417%	956366854	956563655		
87	260	0.409%	956313600	956366855		

Case 1:16-cv-00259-ABJ Document 48 Filed 04/12/18 Page 58 of 59

TRM JCDS	23-Dec-14					
Yakeouts		10.00%				
Total Prize Pool		90.00%	Seed @ 50.0%	$20216.40		
					Win Map Start Binary	Win Map End Binary
Pay Index	Minimum Pay	Pool %	Win Map Start	Win Map End		
88	255	0.402%	956302356	956313599		
89	250	0.964%	952111377	956102355		
90	245	0.386%	949489776	952111376		
91	240	0.378%	948436992	949489775		
92	235	0.370%	947078336	948436991		
93	230	0.362%	947914802	947978335		
94	225	0.531%	945946612	947914801		
95	220	0.346%	944522256	945946631		
96	215	0.564%	943753213	944522255		
97	210	0.591%	943718403	943753212		
98	205	0.513%	942276640	943718407		
99	200	0.525%	941654073	942276639		
100	195	0.507%	941621780	941654032		
101	190	0.499%	940834820	941621779		
102	185	0.388%	940576768	940834819		
103	180	0.378%	940311552	940576767		
104	175	0.419%	940049408	840311551		
105	170	0.357%	939851808	940049408		
106	165	0.390%	939786272	939851807		
107	160	0.373%	939656214	939786171		
108	155	0.366%	939592704	939656223		
109	150	0.787%	939540516	939592703		
110	145	0.300%	939532290	939540515		
111	140	0.267%	939526178	939532289		
112	135	0.283%	939524736	939526175		
113	130	0.273%	939524258	939524735		
114	125	0.326%	939524116	939524157		
115	120	0.257%	939524098	939524115		
116	115	0.302%	991169156	939524097		

TRMI005	23-Dec-14					
Takeout:		10.00%				
Total Prize Pool		90.00%	Seed @ $0.01:	$20216.40		
Pay Index	Minimum Pay	Pool %	Win Map Start	Win Map End	Win Map Start Binary	Win Map End Binary
117	110	0.289%	920454338	931158395		
118	105	0.220%	915177472	920654337		
119	100	1.050%	906133568	915177471		
120	95	0.209%	905977938	906133507		
121	90	0.593%	891818172	905977937		
122	85	0.558%	885276929	891818271		
123	80	1.050%	877789203	885276928		
124	75	1.476%	872677398	877780102		
125	70	1.378%	872413232	872677597		
126	65	1.706%	843055670	872413231		
127	60	1.575%	830868604	843055669		
128	55	2.887%	813727896	833368993		
129	50	2.624%	806355559	813727855		
130	45	2.952%	805307201	806355558		
131	40	2.624%	746618684	805302200		
132	35	3.674%	689176617	746618683		
133	30	3.937%	671162368	689176611		
134	25	3.280%	612385154	671162367		
135	20	2.624%	578945028	611365155		